



LOBBYING IN MISSISSIPPI

*Ensuring Compliance and
Improving Disclosure*

2012



The Mississippi Secretary of State

401 Mississippi Street ★ Jackson, Mississippi 39205
(800) 829-6786 Elections Hotline ★ (601) 359-1499 (FAX)



DELBERT HOSEMANN
Secretary of State

POST OFFICE BOX 136
JACKSON, MISSISSIPPI 39205-1036
TELEPHONE (601) 359-1350

401 MISSISSIPPI STREET
JACKSON, MISSISSIPPI 39201
FACSIMILE (601) 359-1499

Dear Fellow Mississippian,

My staff and I are pleased to publish this edition of *Lobbying in Mississippi*, the guide for lobbyists, lobbyists' clients, and any person interested in the lobbying requirements of Mississippi. As Secretary of State, I am committed to providing public access to information. I believe we encourage citizen participation and ensure public trust in government by providing the information people need to participate in the process.

This handbook contains all the information lobbyists and lobbyists' clients need to comply with Mississippi lobbying requirements. Also, as part of our commitment to increasing access to information, I am happy to make all lobbying forms and this guide available through our website at www.sos.ms.gov.

I encourage you to take advantage of the resources offered by our agency, and I hope you find this guide useful and user-friendly. If my office can assist you with additional information or clarification with regard to Mississippi lobbying laws, do not hesitate to call Kenneth Jones at (601) 359-6353 or Amanda Frusha at (601) 359-5213. You may also contact the Elections Division at (800) 829-6786 or (601) 576-2550. Thank you.



Sincerely,

C. DELBERT HOSEMANN, Jr.
Secretary of State

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About this Guide

Lobbying in Mississippi is published by the Secretary of State's Office as a handbook for registered lobbyists and lobbyists' clients. This booklet contains information necessary for compliance with the *Lobbying Law Reform Act of 1994*, Miss. Code Ann. § 5-8-1 et seq. (1972). This guide and all lobbying forms and reports are available free of charge at the Secretary of State's Office website at http://www.sos.ms.gov/elections_candidates_lobbyists_center3.aspx

For Assistance



Mail

Mississippi Secretary of State's Office
Attn: Lobbyist Registration and Reporting
Post Office Box 136
Jackson, MS 39205-0136



Location

Mississippi Secretary of State's Office
The Heber Ladner Building
401 Mississippi Street
Jackson, MS 39201



Phone

(601) 359-6353
(601) 576-2550
(800) 829-6786



Fax

(601) 576-2545
(601) 359-1499



E-mail

Lobbying@sos.ms.gov

Customer Service Standards

The Mississippi Secretary of State's Office is committed to providing superior customer service efficiently, promptly, and courteously. As a part of that commitment, suggestions, comments, and requests for information are welcome. The Secretary of State's Office does not discriminate on the basis of race, religion, national origin, sex, age, or disability in employment or the provision of services.

Chapter 1

Lobbying at a Glance

LOBBYING SNAPSHOT

- ✓ The Secretary of State's Office monitors lobbying registration and reporting.
- ✓ A lobbyist must represent a client.
- ✓ The lobbying cycle extends from January 1 through December 31 of each year.

The Secretary of State's Office

The State of Mississippi monitors lobbyist registration and reporting through the Elections Division of the Secretary of State's Office. The Secretary of State's Office provides all necessary forms online, issues certificates of registration, and publishes reports for public inspection. Enforcement of the lobbying law is carried out through the Secretary of State's Office, along with the district attorneys, the Attorney General, and the Mississippi Ethics Commission. All forms and registration information must be obtained and filed online at <http://www.sos.ms.gov/elec/portal/mse/portal.aspx>.

Lobbyist

The State of Mississippi defines a **lobbyist** as any individual who:

- is employed and receives payments, or who contracts for economic consideration, including reimbursement for reasonable travel and living expenses, for the purpose of lobbying;
- represents a legislative or public official or public employee, or who represents a person, organization, association or other group, for the purpose of lobbying; and/or
- is a sole proprietor, owner, part owner, or shareholder in a business, who has a pecuniary interest in legislative or executive action, who engages in lobbying activities.

The State of Mississippi defines **lobbying** as:

- influencing or attempting to influence legislative or executive action through oral or written communication;
- solicitation of others to influence legislative or executive action;
- paying or promising to pay *anything of value* directly or indirectly related to legislative or executive action.

Lobbyist's Client

A **lobbyist's client** is any entity or person in whose behalf the lobbyist influences or attempts to influence legislative or executive action.

The Lobbying Cycle: The Reports

Current lobbying reporting processes and statutes in the State of Mississippi are the result of the *Lobbying Law Reform Act of 1994*. Passed by the Mississippi Legislature, the law provided statutes and regulations for all registered lobbyists and their clients. All persons or entities who engage in lobbying activity in the State of Mississippi must register with the Secretary of State's Office. ***The Mississippi lobbying cycle begins on January 1 and ends December 31 of each calendar year, and registration is required each year.***

All lobbying reports for the cycle are filed with the Secretary of State's Office. Mississippi statute requires all registered **lobbyists** file three (3) reports during the lobbying cycle. They are:

- The Legislative **Mid-Session report**– February 25th
(Note: Feb. 25th falls on a Saturday)
- The Legislative **End-of-Session report**– 10 days after *sine die*
- The **Annual Report** of Expenditures– **January 30th**
- The **Annual Report** of Expenditures
 - Registered **lobbyists' clients** file one (1) report with the Secretary of State's Office during the lobbying cycle:

Enforcement

In accordance with Miss. Code Ann. § 5-8-17 (1972), the Secretary of State *must* levy civil penalties and monetary fines upon those lobbyists and lobbyists' clients who fail to file required reports by the statutory deadline. The law allows a grace period of nine (9) calendar days following the statutory filing deadlines. Beginning with the tenth calendar day after the filing deadline, the Secretary of State begins assessing a fine of \$50 per day for up to 10 calendar days for failure to file a required lobbyist or lobbyist's client report. Only because of “**unforeseeable mitigating circumstances**” is the Secretary of State allowed to waive all or part of the mandatory penalty.

Although the Secretary of State's Office attempts to notify delinquent lobbyists and lobbyists' clients of their delinquent status prior to assessing the fine, failure to receive notice by mail prior to the tenth calendar day after the deadline will not result in removal or reduction of the fine.

An intentional violation of the lobbying law is a criminal offense with a maximum penalty of \$1,000 and six (6) months imprisonment for the first offense, and \$5,000 and three (3) years imprisonment for subsequent offenses. Please see Miss. Code Ann. §§ 5-8-17 and 5-8-21 (1972), as reported in Appendix D: *Mississippi Lobbying Statutes*, beginning on page 22 of this booklet for further information regarding fines and penalties for failure to report lobbyist and lobbyist's client activities.

Chapter 2

Lobbying Registration

LOBBYING SNAPSHOT

- ✓ Electronic Filing
- ✓ Each registration fee is \$25 plus electronic convenience fee

Who Must Register

All persons or entities engaging in lobbying activity in the State of Mississippi must register with the Secretary of State's Office. The Mississippi lobbying cycle begins *on January 1* and ends *December 31* of each calendar year. Registration is required each year.

Lobbyists and lobbyists' clients who lobby on an ongoing basis should register with the Secretary of State's Office by **January 1** of each year. Persons who have not lobbied the previous year, or who begin lobbying later in the year, must register within five calendar days of being employed as a lobbyist, or, in the case of the lobbyist's client, within five (5) calendar days of employing a lobbyist. Holidays and weekends are counted in the five (5) days. For example, a lobbyist who becomes employed on February 5, 2012 must register with the Secretary of State's Office no later than February 10, 2012. All forms and registration information must be obtained and filed online at <http://www.sos.ms.gov/elec/portal/mse/portal.aspx>.

Each registration is only valid for one (1) calendar year, beginning January 1 and ending December 31. In addition, all lobbyists who will be lobbying in 2012 are encouraged to re-register as soon as possible, in order to keep their registration current.

Exemptions

Exemption from filing lobbying registrations is granted, but not limited to, the following:

- Elected officials acting in an official capacity.
- Individuals who:
 - Represent or purport to represent only him/herself;
 - Receive no compensation or *anything of value* for lobbying;
 - Have no **pecuniary interest** in the action for which he or she is lobbying; and/or
 - Do not pay, or give, or promise to pay or give *anything of value* more than \$200 aggregately per year to public officials.

The full explanation of lobbying exemptions can be found in Miss. Code Ann. § 5-8-7 (1972) as reprinted in Appendix D: *Mississippi Lobbying Statutes* on page 22 of this booklet. Lobbyists and clients are encouraged to become familiar with all regulations and statutes.

After reading the exemptions, if you still have doubt as to whether or not you qualify as a lobbyist, please consult Appendix C: *Frequently Asked Questions* in this booklet, or call the Secretary of State's Elections Division at **(601) 359-1350 or (800) 829-6786** to discuss your status.

A \$25 registration fee must be paid to the Secretary of State's Office with each registration online. All registrations have an electronic fee that is assessed per transaction and varies based on amount and card type.

LOBBYING SNAPSHOT

- ✓ Lobbyists must file two (2) Legislative Expenditure Reports (Form E).
- ✓ Both the lobbyist and client must file Annual Reports (Form A and Form C respectively).
- ✓ Civil Penalties will be assessed if lobbying reports are filed after the statutory nine (9) day grace period following the deadline date.

Overview

Reporting lobbyist activity is a mandatory part of the lobbying process. *The Lobbying Law Reform Act of 1994* requires that lobbyists file two (2) **Legislative Expenditure Reports** and one (1) **Annual Report** each year. **Lobbyists' clients** are required to file an **Annual Report** each year.

These requirements are found in Miss. Code Ann. § 5-8-11(5)(6) (1972). Further descriptions of these reporting requirements are in Miss. Code Ann. § 5-8-11(7)(8) (1972). Please refer to Appendix D: *Mississippi Lobbying Statutes*, for a complete copy of the law. Failure to file by the statutory deadline results in fines being assessed by the Secretary of State's Office.

Each report requires the filer's **Certificate Number**. This number can be found on the lobbyist certificate card issued by the Secretary of State's Office upon registration. This number must be included on each report filed by the lobbyist and the lobbyist's client. Persons who have misplaced their certificate numbers should call the Secretary of State's Office Elections Division at (601) 576-2550 or (800) 829-6786.

The law provides a **grace period** following all filing deadlines. Beginning with the tenth calendar day after which any report is due, the Secretary of State must begin assessing fines totaling \$50 per day for up to 10 days for failure to file a required lobbyist or lobbyist's client report. The only provision for leniency is when "*unforeseeable mitigating circumstances*" have prevented the lobbyist or lobbyist's client from filing timely. The example of "unforeseeable mitigating circumstances" stated in the law is "such as the health of the lobbyist." Please refer to Miss. Code Ann. § 5-8-17 (1972) on page 22 of this booklet for the statute regarding penalties for late filing. See also the term "unforeseeable mitigating circumstances" in the "Frequently Used Terms" section of this booklet.

IMPORTANT: Failure to file these reports within the specified time may result in civil fines being assessed by the Secretary of State.

2012 Lobbyist Reporting Deadlines

Monday, January 30, 2012.....**2011 Annual Reports Due**
Lobbyist's Annual Report (FORM A)
Lobbyist's Client Annual Report (FORM C)
(Fines begin Thursday, February 9, 2012)

Saturday, February 25, 2012**2012 Mid-Session Reports Due**
Legislative Session Report
(Fines begin Tuesday, March 6, 2012)

Tuesday, May 15, 2012.....**2012 End-of-Session Reports Due**
(sine die May 5, 2012)
Legislative Session Report
(Fines begin Friday, May 25, 2012)

Wednesday, January 30, 2013.....**2012 Annual Reports Due**
Lobbyist's Annual Report
Lobbyist's Client Annual Report
(Fines begin Friday, February 8, 2013)

Statutory Deadlines - The date on which a report must be filed, according to law. There are three main statutory deadlines: January 30 (Annual Report), February 25 (Mid-Session Report), and ten (10) days after *sine die* (End-of-Session Report). Failure to file Annual Reports and Legislative Session Reports by their respective statutory deadlines results in lobbyists and lobbyists' clients being assessed fines. All registered lobbyists and clients must file an Annual "A" (lobbyist) or "C" (client) report.

The first report, the **Mid-Session Legislative Expenditure Report**, is due at the mid-point of the legislative session. The Mid-Session Legislative Expenditure Report filing deadline is set by statute on **February 25** of each calendar year. **Note: In 2012, Feb. 25th falls on a Saturday.** All registered lobbyists (not clients) must file a Mid-Session report.

The second report, or **End-of-Session Legislative Expenditure Report**, is due ten (10) days after sine die (*sine die* is the last day the legislature is in session – legislative adjournment – and is subject to change if the legislative session is extended). End-of-Session filing deadline is dependent on the calendar date of *sine die*.

Call (601) 359-6353 or (800) 829-6786 if you need help, or go to:
http://www.sos.ms.gov/elections_candidates_lobbyists_center3.aspx

Mailing address:
Mississippi Secretary of State
Lobbying Division
P.O. Box 136
Jackson, Mississippi 39205-0136

Physical address:
Mississippi Secretary of State
Lobbying Division
401 Mississippi Street
Jackson, Mississippi 39201

Chapter 4

The Legislative Session Report

LOBBYING SNAPSHOT

- ✓ Only lobbyists file Legislative Session Reports.
- ✓ The Mid-Session Report is due February 25 (Please note Feb. 25th is on a Saturday, therefore reports must be in office by 5:00pm on Friday, February 24, 2012.)
- ✓ The End-of-Session Report is due ten (10) days after *sine die*.
- ✓ All lobbyists who are registered during the legislative session must file the Legislative Session Reports.

Who Must File

The first two (2) reports of the lobbying cycle are the Legislative Session Reports (Form E). *All lobbyists* must file these two Legislative Session Reports. Both of these reports are filed for **every client** a lobbyist represents. Lobbyists must file these reports even if there are no reportable expenditures.

Both Legislative Session reports are abbreviated reports of lobbyist expenditures during the legislative session. These reports do not require disclosure of any overhead costs; instead, they require reportable disclosure of any “things of value” *given or promised* to public officials. Disclosure of reportable things of value given to public officials by lobbyists after the legislative session ends or during special sessions of the Legislature is reported in the Lobbyist’s Annual Report (Form A).

The first report, the **Mid-Session Legislative Expenditure Report**, is due at the mid-point of the legislative session. The filing deadline is set by statute on **February 25** of each calendar year (Note: Feb. 25th falls on a Saturday). Fines will begin on Monday, March 5, 2012. All lobbyists who registered before the Mid-Session due date must file a Mid-Session report.

The second report, or **End-of-Session Legislative Expenditure Report**, is due 10 days after *sine die* (legislative adjournment). The filing deadline is dependent on the calendar date of *sine die*. In 2012, *sine die* is currently scheduled for May 5, 2012. The report is therefore tentatively due **May 15, 2012**, with fines beginning Friday, May 25, 2012; however, the May 5, 2012, date is subject to change due to a change of *sine die*. You will be notified if this date changes. All lobbyists who registered on or after the Mid-Session due date and before the End-of-Session due date must file a End-of-Session report.

Points to Remember

- All forms and registration information must be obtained and filed online at <http://www.sos.ms.gov/elec/portal/mse/portal.aspx>.
- Only lobbyists file Legislative Session Reports (Form E).
- All lobbyists must file Form E, even if no reportable expenditures are disclosed.
- The lobbyist must submit a separate report for each client he or she represents.
- Failure to file Form E by the statutory deadline may result in the imposition of a fine by the Secretary of State as defined in Miss. Code Ann. § 5-8-17 (1972).
- Any “*thing of value*” given toward food and beverages served at a reception as defined in Miss. Code Ann. §§ 5-8-9(8) and 5-8-11(7) (1972) is not required to be reported on Form E. These expenditures should be reported on the lobbyist and lobbyist’s client Annual Reports (Form A and Form C, respectively).
- All lobbyists are encouraged to familiarize themselves with the code sections cited above to determine whether such expenditures are exempt from reporting under the law.

Chapter 5

The Annual Reports of Expenditures

LOBBYING SNAPSHOT

- ✓ Annual Reports are due January 30 of each year.
- ✓ Lobbyists and Lobbyists' Clients must both file annual reports.
- ✓ Lobbyists file FORM A.
- ✓ Lobbyist's Client file FORM C.

Who Must File

The final statutory report of each lobbying cycle is the Annual Report of Expenditures. Both the lobbyist and the lobbyist's client *must* file individual annual reports with the Secretary of State's Office on or before **January 30** of each year. These reports cover activities from *January 1* through *December 31* of the year for which the lobbyist is registered.

The Lobbyist's Annual Report is **Form A**.

The Lobbyist's Client's Annual Report is **Form C**.

Lobbyists must file a separate report for each client he or she represents.

Chapter 6

Supplemental Lobbying Reporting

LOBBYING SNAPSHOT

- ✓ Supplemental Forms are used when more space for itemized entries is needed than that provided on Form E, Form A, and Form C.
- ✓ Form XMC is used when more than one client benefited from an itemized entry.

Lobbyists should also note that a **FORM T: *Termination of Lobbyist Registration***, may be filed as an official notice of termination of a lobbyist or lobbyist's client registration. The FORM T form should be filed along with the Lobbyist's Annual Report at the time of termination.

Chapter 7

Delinquencies, Fines, and Penalties

LOBBYING SNAPSHOT

- ✓ Civil fine assessment begins ten (10) days after all reporting deadlines.
- ✓ Fines are assessed at the rate of \$50 per day.
- ✓ Fines are assessed each reporting deadline.

Civil Penalties

In accordance with Miss. Code Ann. § 5-8-17 (1972), the Secretary of State *must* levy civil penalties and monetary fines upon those lobbyists and lobbyists' clients who fail to file required reports by the statutory deadline. To avoid penalty, all reports must be **filed online** with the Secretary of State's Office no later than **5:00 p.m.** on the report deadline date. These dates are found on page 9.

The law allows *a grace period of nine (9) calendar days following the statutory filing deadlines*. Beginning with the **tenth calendar day** after the filing deadline, the Secretary of State must begin assessing a fine of \$50 per day for up to 10 days for failure to file a required lobbyist or lobbyist's client report. This fine is per day and part of any day until a valid report is delivered to the Secretary of State. Only because of **unforeseeable mitigating circumstances** is the Secretary of State allowed to waive all or part of the mandatory penalty. See page 19 for definition of "unforeseeable mitigating circumstances."

Although the Secretary of State's Office attempts to notify delinquent lobbyists and lobbyists' clients of their delinquent status prior to assessing the fine, failure to receive notice by mail prior to the tenth calendar day after the deadline will not result in removal or reduction of the fine. Filing of the required report and paying the fine within 10 calendar days of notice by the Secretary of State that a required statement has not been filed constitutes statutory compliance. **Payment of the fine without filing the report does not constitute compliance.**

Criminal Penalties

An intentional violation of the lobbying law is a criminal offense with a maximum penalty of \$1,000 and six (6) months imprisonment for the first offense and \$5,000 and three years imprisonment for subsequent offenses. Please see Miss. Code Ann. §§ 5-8-17 and 5-8-21 (1972), in Appendix D: *Mississippi Lobbying Statutes* beginning on page 22 of this booklet for further information regarding fines and penalties for failure to report lobbying and lobbyist's client activities.

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Appendix A:

Lobbying Law – General Interpretations

Sales

Payments or expenses associated with sales to state and local governments that are subject to the purchasing laws of the State of Mississippi are generally not subject to the lobbying law registration or reporting requirements. See Mississippi Attorney General's Official Opinion to the Honorable Tim Ford dated February 17, 1995. Copies of this opinion may be obtained from the Attorney General's Office at: www.ago.state.ms.us - Docket Number 1994-0837.

Executive Action

Miss. Code Ann. § 5-8-3(d) (1972) defines *executive action* as:

(d) “the proposal, drafting, development, consideration, amendment, adoption, approval, promulgation, issuance, modification, rejection or postponement by a state or local governmental entity of a rule, regulation, order, decision, determination or other quasi-legislative action or proceeding.”

Accordingly, routine matters by agencies and local governments which do not require an official order or other official action described above do not generally fall within the definition of “*executive action*.”

Quasi-Judicial Action

While the definition of *executive action* in Miss. Code Ann. § 5-8-3(d) (1972) includes references to various executive and quasi-legislative actions, no reference is made to quasi-judicial proceedings.

Accordingly, the position of the Secretary of State is that payments or expenses associated solely with a purely quasi-judicial forum or proceeding are not subject to the requirements of the lobbying law.

Community Economic Development Agencies

As a general rule, the Secretary of State's Office does not regard as influence on executive or legislative action the traditional activities of government-funded community economic development agencies — including the promotion of location and expansion of businesses in a specific community or geographic area.

Thus, such bona-fide economic development activities undertaken by community economic development agencies which are funded in whole or in part by government funds (including chambers of commerce which receive government funding) may generally be undertaken without being subject to the lobbying law.

However, the agency or chamber should register and report lobbying activity if it undertakes a lobbying effort unrelated to its economic development mission within its particular community or geographic area.

Acknowledging that government-funded community economic development agencies frequently enlist the support of existing business enterprising in assisting their bona-fide economic development

activities, the position of the Secretary of State's Office is that such assistance is likewise generally not subject to the lobbying law if the community economic development agency makes a specific request for a particular form of assistance. Contemporaneous records should be kept of all such requests.

Training For Community Health, Safety, and Welfare

The Secretary of State's Office generally does not regard as lobbying activity expenditures made strictly in the context of training offered for the general health, safety, and welfare of the community. For example, training provided to local government employees on utility line safety is not considered lobbying.

Appendix B: Terms and Definitions

Annual Report - Annual reports are filed separately by lobbyists and lobbyist's clients. Annual reports are detailed financial reports of lobbying activities conducted during the previous calendar year; due no later than January 30 of the year following lobbying activity.

Certificate Number - The number assigned to each lobbyist's client the lobbyist is registered to represent. The certificate number is found on the lobbyist's certificate card issued at registration (also referred to as *registration number*).

Civil Fines - Civil fines are monetary fines. Lobbyists and lobbyists' clients are fined \$50 per day if they do not file annual reports or legislative session reports by the statutory deadline.

End-of-Session Report - The second, and final, legislative session report (Form E). Each lobbyist must file an End-of-Session report with the Secretary of State within ten (10) days of *sine die*.

Lobbyist Annual - Form A is the annual report filed by each lobbyist. If a lobbyist has multiple clients, a separate Form A is filed for each client. These are due in the Secretary of State's Office no later than **5:00 p.m. on January 30** of each year.

Client Annual - The annual report filed by each lobbyist's client. Lobbyists' clients file a single Form C on all lobbyists employed by that client; due in the Secretary of State's Office no later

than **5:00 p.m. on January 30** of each year.

Mid Session/End Session - Form E is the Legislative Session Report. **It is filed only by lobbyists.** Two are filed each year; due in the Secretary of State's Office no later than **5:00 p.m. on February 25** and **ten (10) days after sine die.**

Form R - Form R is the Lobbyist's Registration Form that establishes the relationship between the lobbyist and the lobbyist's client during the lobbying cycle. A lobbyist must file a registration form *each* calendar year.

Form T - Form T is the Lobbyist's Termination Report that dissolves the relationship between the lobbyist and the lobbyist's client. Form T should only be filed if the lobbyist terminates services before the end of the lobbying cycle.

Form X - Form X is the supplemental Itemized Expenditure Report. It can be used as an attachment for Form A and Form C.

Form XL - Form XL is the supplemental Itemized Legislative Expenditure Report. It can be used as an attachment to Form E.

Form XMC - Form XMC is the supplemental Itemized Expenditures Benefiting Multiple Clients Report. It can be used as an attachment for Form E and Form A.

Form XP - Form XP is the supplemental Itemized Reception Report. It can be used as an attachment for Form A and Form C.

Grace Period - The first nine (9) calendar days following a reporting deadline before civil fines are assessed. Fine assessment begins ten (10) days following a reporting deadline.

Legislative Session Reports - Two Legislative Session Reports (Form E) are filed by each lobbyist. Lobbyists' clients do not file Legislative Session Reports. However, lobbyists must file a separate Form E for each client the lobbyist represents. In 2012, Legislative Session Reports are due in the Secretary of State's Office no later than **5:00 p.m. on February 25** and **ten (10) days after *sine die***.

Lobbyist - (i) An individual who is employed and receives payments, or who contracts for economic consideration, including reimbursement for reasonable travel and living expenses, for the purpose of lobbying

(ii) An individual who represents a legislative or public official or public employee, or who represents a person, organization, association, or other group for the purpose of lobbying

(iii) A sole proprietor, owner, part owner, or shareholder in a business who has a pecuniary interest in legislative or executive action, who engages in lobbying activities

Lobbyist's Client - The person in whose behalf the lobbyist influences or attempts to influence legislative or executive action.

Lobbying Cycle - The Mississippi lobbying cycle begins on January 1 and ends December 31 of *each* calendar year.

Mid-Session Report - The first Legislative Session Expenditure Report, *due February 25*, that all lobbyists file.

Pecuniary Interest - Pecuniary interest is any degree of direct or indirect financial interest.

Reception - A reception is a function sponsored by a lobbyist or lobbyist's client that begins and ends within one day, to which all 174 legislative members and the eight (8) statewide elected officials are individually invited.

sine die - Legislative adjournment; may change during the course of the session; determines the due date of the Legislative End-of-Session Report.

Statutory deadlines - The date on which a report must be filed, according to law. There are three main statutory deadlines: **January 30, February 25, and ten (10) days after *sine die***. Failure to file Annual Reports and Legislative Session Reports by their respective statutory deadlines results in lobbyists and lobbyists' clients being assessed fines.

Unforeseeable Mitigating Circumstances - The only circumstance in which a lobbying fine can be waived by the Secretary of State. The statute, Miss. Code Ann. § 5-8-17(1)(b) (1972) cites as an example "such as the health of the lobbyist." This standard is interpreted strictly, thus few fines are waived. For instance, failure to receive mailed notice of a fine or other mailings is not an "unforeseeable mitigating circumstance."

Appendix C: Frequently Asked Questions

Q. The grace period for filing reports ends on a Saturday. If I turn my report in the following Monday, am I still fined?

A. *Yes. The grace period allows nine (9) days to file after the filing deadline without penalty. Fines are assessed beginning 10 days after each filing deadline.*

Q. My report was postmarked on the day of the penalty deadline; why am I still being fined?

A. *By statute, reports must be received in the Secretary of State's Office by **5:00 p.m.** by the deadline day.*

Q. Are fines assessed by working days or calendar days?

A. *Calendar days, including Saturday, Sunday, and holidays, if they fall within the penalty period.*

Q. Are campaign contributions reported on lobbying reports?

A. *No. Lawful campaign contributions are not reported on lobbying disclosure reports if they are subject to the campaign finance disclosure laws of Mississippi.*

Q. I am a public official. When one of my constituents buys me a cup of coffee, is that supposed to be reported?

A. *As long as the constituent is not lobbying on behalf of a client, and not spending more than \$200 in a calendar year on public officials, the constituent would be exempt.*

Q. Is lobbying of federal officials, elected or appointed, subject to Mississippi's lobbying laws?

A. *No. However, lobbying of state, county, municipal, and other local officials is covered by the lobbying law.*

Q. If something of value is given to a judicial official, is that required to be reported?

A. *No. Judges are not under the Mississippi lobbying law.*

Q. I am a private citizen who wants to contact my local legislators about a bill I'm supporting. Must I register as a lobbyist?

A. *Generally, if no more than \$200 is spent on influencing legislators, the citizen will be exempt.*

Q. If my company pays for "educational" or "recreational" trips for public officials, are they exempt from reporting?

A. *No. Reports must be made for travel, lodging, and/or entertainment expenses.*

Q. I'm an association member, and I took a couple of legislators to dinner before an important committee vote. Must I register as a lobbyist?

A. *You must register as a lobbyist if you spend more than \$200 per year on a public officials.*

Q. I'm an association member, and I come to Jackson one week each year, usually spending about \$2,000 meeting with state officials on decisions their agency makes. Must I register as a lobbyist?

A. Yes. You spent more than \$200 per year to influence decision-making by public officials.

Q. I am an attorney arguing a case before a Mississippi court. Must I register as a lobbyist?

A. No. The lobbying law applies only to legislative and executive bodies, and boards and commissions, including boards of supervisors.

Q. I am a state agency employee, whose job involves working with legislators to promote or defeat legislation of interest to my agency. Must I register as a lobbyist?

A. Yes, if lobbying is a primary or regular function of your job or if you give the legislators more than \$200 worth of things of value in a calendar year.

Q. I own a few shares in a company that employs lobbyists. If I take a legislator to dinner about a bill affecting that company, must I register as a lobbyist?

A. No, unless you spend more than \$200 per year to influence decisions by public officials.

Q. I am a registered lobbyist. If I buy a public official a \$12 lunch, what must I report?

A. When buying lunch for a public official, you must report the lunch, the value of the lunch, where the lunch occurred, your name, and the name of the official.

Q. I work for a "good government" organization that telephones or writes its members to contact legislators in favor or against specific legislation. Should we list this expense on our periodic reports?

A. Yes.

Q. Our company, which is registered as a lobbyist's client, invites the entire Legislature and all statewide officials to a reception each year. Must we itemize the names of all attendees?

A. No. The law specifically exempts from itemization requirements receptions held for the entire Legislature and all statewide officials. This statute refers to food at such an event as "for immediate consumption," which means it is eaten within the span of one day.

Q. Because of errors by the post office (or misrouting of mail in my office, or similar delay), I never received my fine warning letter until after the fines began being assessed. Will I still be fined?

A. Yes. The Secretary of State's Office supplies a calendar of statutory deadlines to each registered lobbyist and lobbyist's client.

Lobbyists and lobbyists' clients are advised to familiarize themselves with the statutory requirements and dates. The law requires the final fine warning notice to be mailed but does not condition assessment of the fine on receipt prior to the fine assessment date

Appendix D: **Mississippi Lobbying Statutes**

Sec. 5-8-1. Short Title.

Sec. 5-8-3. Definitions.

Sec. 5-8-5. Registration statements; filing; contents; length of registration period; effective date of registration; termination of registration; forms.

Sec. 5-8-7. Persons excluded from definition of “lobbyist” and “lobbyist’s client.”

Sec. 5-8-9. Report of expenditures of lobbyist’s client; exceptions.

Sec. 5-8-11. Report of payments received by lobbyist from each lobbyist’s client; exceptions.

Sec. 5-8-13. Prohibited acts; required acts.

Sec. 5-8-15. Investigations of violations of chapter.

Sec. 5-8-17. Penalties; Ethics Commission hearings; appeals; investigation by Attorney General of continued non-compliance.

Sec. 5-8-19. Duties of Secretary of State.

Sec. 5-8-21. Penalties for intentional violations; prosecution of corporation or association not barred.

Sec. 5-8-23. Severability clause.

Editor’s Note

Effective upon effectuation under Sec. 5 of the Voting Rights Act of 1965. Provisions similar to those found in this chapter were formerly found in Title 5, Chapter 7.

Sec. 5-8-1. Short Title.

This chapter shall be cited as the “Lobbying Law Reform Act of 1994.”

Sec. 5-8-3. Definitions.

The following words and phrases shall have the meanings ascribed herein unless the context clearly indicates otherwise:

(a) (i) “Anything of value” means:

1. A pecuniary item, including money, or a bank bill or note;

2. A promissory note, bill of exchange, order, draft, warrant, check or bond given for the payment of money;

3. A contract, agreement, promise or other obligation for an advance, conveyance, forgiveness of indebtedness, deposit, distribution, loan, payment, gift, pledge or transfer of money;

4. A stock, bond, note or other investment interest in an entity;

5. A receipt given for the payment of money or other property;

6. A right in action;

7. A gift, tangible good, chattel or an interest in a gift, tangible good or chattel;

8. A loan or forgiveness of indebtedness;

9. A work of art, antique or collectible;

10. An automobile or other means of personal transportation;

11. Real property or an interest in real property, including title to realty, a fee simple or partial interest, present or future, contingent or vested within realty, a leasehold interest, or other beneficial interest in realty;

12. An honorarium or compensation for services;

13. A rebate or discount in the price of *anything of value*, unless the rebate or discount is made in the ordinary course of business to a member of the public without regard to that person’s status as an executive, legislative or public official or

public employee, or the sale or trade of something for reasonable compensation that would ordinarily not be available to a member of the public;

14. A promise or offer of employment;

15. Any other thing of value that is pecuniary or compensatory in value to a person, except as otherwise provided in subparagraph (ii) of this paragraph; or

16. A payment that directly benefits an executive, legislative or public official or public employee or a member of that person's immediate family.

(ii) *Anything of value* does not mean:

1. Informational material such as books, reports, pamphlets, calendars or periodicals informing an executive, legislative or public official or public employee of her or his official duties;
2. A certificate, plaque or other commemorative item which has little pecuniary value;
3. Food and beverages for immediate consumption provided by a lobbyist up to a value of ten dollars (\$10) in the aggregate during any calendar year;
4. Campaign contributions reported in accordance with Section 23-15-801 et seq., Mississippi Code of 1972.

(b) "Commission" means the Mississippi Ethics Commission, when used in the context of Section 5-8-19 of this chapter.

(c) "Compensation" means:

- (i) An advance, conveyance, forgiveness of indebtedness, deposit, distribution, loan, payment, gift, pledge or transfer of money or *anything of value*, including reimbursement of travel, food or lodging costs; or

(ii) A contract, agreement, promise or other obligation for an advance, conveyance, forgiveness of indebtedness, deposit, distribution, loan, payment, gift, pledge or transfer of money or *anything of value*, including reimbursement of travel, food or lodging costs, for services rendered or to be rendered.

(d) "Executive action" means the proposal, drafting, development, consideration, amendment, adoption, approval, promulgation, issuance, modification, rejection or postponement by a state or local governmental entity of a rule, regulation, order, decision, determination or other quasi-legislative action or proceeding.

(e) "Executive agency" means:

- (i) An agency, board, commission, governing authority or other body in the executive branch of state or local government; or
- (ii) An independent body of state or local government that is not a part of the legislative or judicial branch, but which shall include county boards of supervisors.

(f) "Executive official" means:

- (i) A member or employee of a state agency, board, commission, governing authority or other body in the executive branch of state or local government; or
- (ii) A public official or public employee, or any employee of such person, of state or local government who takes an executive action.

(g) "Expenditure" means:

- (i) A purchase, payment, distribution, loan, forgiveness of a loan or payment of a loan by a third party, advance, deposit, transfer of funds, a promise to make a payment, or

a gift of money or *anything of value* for any purpose;

(ii) A payment to a lobbyist for salary, fee, commission, compensation for expenses, or other purpose by a person employing, retaining or contracting for the services of the lobbyist separately or jointly with other persons;

(iii) A payment in support of or assistance to a lobbyist or the lobbyist's activities, including the direct payment of expenses incurred at the request or suggestion of the lobbyist;

(iv) A payment that directly benefits an executive, legislative or public official or a member of the official's immediate family;

(v) A payment, including compensation, payment or reimbursement for the services, time or expenses of an employee for or in connection with direct communication with an executive, legislative or public official made at the direction of the employee's employer;

(vi) A payment for or in connection with soliciting or urging other persons to enter into direct communication with an executive, legislative or public official; or

(vii) A payment or reimbursement for food, beverages, travel, lodging, entertainment or sporting activities.

(h) "Gift" means *anything of value* to the extent that consideration of equal or greater value is not received, including a rebate or discount in the price of *anything of value* unless the rebate or discount is made in the ordinary course of business to a member of the public without regard to that person's status as an executive, legislative or public official.

(i) "Legislative action" means:

(i) Preparation, research, drafting, introduction, consideration, modification, amendment, approval, passage, enactment, tabling, postponement, defeat or rejection of a bill, resolution, amendment, motion, report, nomination, appointment or other matter by the Mississippi State Legislature or a member or employee of the Legislature acting or purporting to act in an official capacity;

(ii) Action by the Governor in approving or vetoing a bill or other action of the Legislature;

(iii) Action by the Legislature in:

1. Overriding or sustaining a veto by the Governor; or
2. Considering, confirming or rejecting an executive appointment of the Governor.

(j) "Legislative official" means:

(i) A member, member-elect or presiding officer of the Legislature;

(ii) A member of a commission or other entity established by and responsible to either or both houses of the Legislature;

(iii) A staff member, officer or employee to a member or member-elect of the Legislature, to a member of a commission or other entity established by and responsible to either or both houses of the Legislature, or to the Legislature or any house, committee or office thereof.

(k) "Lobbying" means:

(i) Influencing or attempting to influence legislative or executive action through oral or written communication; or

(ii) Solicitation of others to influence legislative or executive action; or

(iii) Paying or promising to pay *anything of value* directly or indirectly related to legislative or executive action.

(l) “Lobbyist” means:

(i) An individual who is employed and receives payments, or who contracts for economic consideration, including reimbursement for reasonable travel and living expenses, for the purpose of lobbying;

(ii) An individual who represents a legislative or public official or public employee, or who represents a person, organization, association or other group, for the purpose of lobbying; or

(iii) A sole proprietor, owner, part owner or shareholder in a business who has a pecuniary interest in legislative or executive action, who engages in lobbying activities.

(m) “Lobbyist's client” means the person in whose behalf the lobbyist influences or attempts to influence legislative or executive action.

(n) “Local” means all entities of government at the county, county-district, multicounty district, municipal or school district level.

(o) “Person” means an individual, proprietorship, firm, partnership, joint venture, joint-stock company, syndicate, business trust, estate, company, corporation, association, club, committee, organization or group of persons acting in concert.

(p) “Public employee” means an individual appointed to a position, including a position created by statute, whether compensated or not, in state or local government and includes any employee of the public employee. The term includes a member of the board of trustees, chancellor, vice-chancellor or the equivalent thereof in the state university system or the state community and junior

college system, and a president of a state college or university.

(q) “Public official” means an individual elected to a state or local office, or an individual who is appointed to fill a vacancy in the office.

(r) “Value” means the retail cost or fair market worth of an item or items, whichever is greater.

Sec. 5-8-5. Registration statements; filing; contents; length of registration period; effective date of registration; termination of registration; forms.

(1) Except as otherwise provided in Section 5-8-7 of this chapter and in addition to reports required by Sections 5-8-9 and 5-8-11 of this chapter, every lobbyist and every lobbyist's client shall file a registration statement with the Secretary of State within five (5) calendar days after becoming a lobbyist, becoming a lobbyist's client or beginning to lobby for a new client. The filing of every registration statement shall be accompanied by the payment of a registration fee of twenty-five dollars (\$25) to the Secretary of State. The lobbyist shall file the registration statement and pay the fees to the Secretary of State for each lobbyist's client whom the lobbyist represents.

(2) The registration statement shall include the following:

(a) The name, address, occupation and telephone number of the lobbyist;

(b) The name, address, telephone number and principal place of business of the lobbyist's client;

(c) The kind of business of the lobbyist's client;

(d) The full name of the person or persons who control the lobbyist's client, the partners, if any, and officers of the lobbyist's client;

(e) The full name, address and telephone number of each lobbyist employed by or representing the lobbyist's client; and

(f) A statement or statements by the lobbyist and lobbyist's client indicating the specific nature of the issues being advocated for or against on behalf of the lobbyist's client, with sufficient detail so that the precise nature of the lobbyist's advocacy is evident from the statement itself.

(3) Registration shall be valid for one (1) calendar year, commencing January 1 and ending December 31 of each year. If the lobbyist or lobbyist's client shall register after January 1, the registration shall be effective upon actual receipt by the Secretary of State and shall cease on December 31 of each year.

(4) A lobbyist or lobbyist's client may terminate his registration by filing an expenditure report required under this chapter. Such report shall include information through the last day of lobbying activity. The termination report must indicate that the lobbyist intends to use the report as the final accounting of lobbying activity.

(5) The Secretary of State shall prescribe and make available to every lobbyist and lobbyist's client appropriate forms for filing registration statements as required by Sections 5-8-1 through 5-8-19 of this chapter.

Sec. 5-8-7. Persons excluded from definition of "lobbyist" and "lobbyist's client."

Notwithstanding any other provisions of this chapter, the following person shall not be included within the definition of "lobbyist" or "lobbyist's client" under this chapter, and accordingly the registration and reporting provisions, including the payment of related fees, of this chapter do not apply to:

(a) A legislative or public official acting in an official capacity.

(b) An individual who:

(i) Represents or purports to represent only the individual;

(ii) Receives no compensation or *anything of value* for lobbying; and

(iii) Has no pecuniary interest in the legislative or executive action.

(c) An individual lobbying in his or her own interest, his or her own business interest, who pays, or promises to pay, offers to pay or causes to be paid to public officials, legislative officials or public employees any thing or things of value aggregating in value to less than two hundred dollars (\$200) in any calendar year.

(d) An individual lobbying on behalf of his or her employer's business interest where such lobbying is not a primary or regular function of his employment position if such individual pays, promises to pay, offers to pay, or causes to be paid individually or on the employer's behalf to public officials, legislative officials, or public employees any thing or things of value aggregating in value to less than two hundred dollars (\$200) in any calendar year.

(e) An individual lobbying on behalf of an association of which he or she is a member, where such lobbying is not a primary or regular function of his or her position in the association, if such individual pays, promises to pay, offers to pay, or causes to be paid individually or on the association's behalf to public officials, legislative officials or public employees any thing or things of value aggregating in value to less than two hundred dollars (\$200) in any calendar year.

(f) An individual who is a shareholder, owner or part owner of a business who lobbies on behalf of such business, where such individual is not an employee of the business, if such individual pays, promises to pay, offers to pay, or causes to be paid individually or on behalf of

the business to public officials, legislative officials or public employees any thing or things of value aggregating in value to less than two hundred dollars (\$200) in any calendar year.

(g) An individual who:

(i) Limits lobbying solely to formal testimony before a public meeting of a legislative body or an executive agency, or a committee, division or department thereof; and

(ii) Registers the appearance in the records of the public body, if such records are kept.

(h) An individual who is a licensed attorney representing a client by:

(i) Drafting bills, preparing arguments thereon, and advising the client or rendering opinions as to the construction and effect of proposed or pending legislation, where such services are usual and customary professional legal services which are not otherwise connected with legislative action; or

(ii) Providing information, on behalf of the client, to an executive or public official, a public employee, or an agency, board, commission, governing authority or other body of state or local government where such services are usual and customary professional legal services including or related to a particular nonlegislative matter, case or controversy.

(i) News media and employees of the news media whose activity is limited solely to the publication or broadcast of news, editorial comments, or paid advertisements that attempt to influence legislative or executive action. For the purposes of this section, "news media" shall be construed to be bona fide radio and television stations, newspapers, journals or

magazines, or bona fide news bureaus or associations which in turn furnish information solely to bona fide radio or television stations, newspapers, journals or magazines.

(j) An individual who engages in lobbying activities exclusively on behalf of a religious organization which qualifies as a tax-exempt organization under the Internal Revenue Code.

(k) An individual who is a nonattorney professional and who receives professional fees and expenses to represent clients on executive agency matters, except that if *anything of value* shall be paid or promised to be paid directly or indirectly on behalf of a client for the personal use or benefit of an executive or public official or public employee, then expenditures and actions of the individual are reportable under this chapter, and the individual must register as a lobbyist.

Sec. 5-8-9. Report of expenditures of lobbyist's client; exceptions.

(1) Except as otherwise provided in Section 5-8-7 of this chapter and in subsection (7) of this section, no later than January 30 of each year, a lobbyist's client shall file a report of expenditures with the Secretary of State. The report must contain information on all expenditures paid by the lobbyist's client during the preceding twelve (12) calendar months.

(2) The report must list expenditures for the purpose of lobbying according to the following categories:

(a) A payment to a lobbyist for salary, fee, compensation for expenses, or other purpose by a person employing, retaining or contracting for the services of the lobbyist separately or jointly with other persons;

(b) A payment for those portions of office rent, utilities, supplies and compensation of support personnel attributable to lobbying activities;

(c) A payment in support of or assistance to a lobbyist or the lobbyist's activities, including the direct payment of expenses incurred at the request or suggestion of the lobbyist;

(d) A payment, including compensation, payment or reimbursement for the services, time or expenses of an employee for or in connection with direct communication with an executive, legislative or public official or public employee, where such communication is made at the request, suggestion or direction of the lobbyist's client;

(e) A payment for or in connection with soliciting or urging other persons to enter into direct communication with an executive, legislative or public official or public employee, where such communication is made at the request, suggestion or direction of the lobbyist's client;

(f) A payment or reimbursement for food, beverages, travel, lodging, entertainment or sporting activities; or

(g) A purchase, payment, distribution, loan, forgiveness of a loan or payment of a loan by a third party, advance, deposit, transfer of funds, a promise to make a payment, or a gift of money or *anything of value* for any purpose.

(3) For each executive, legislative or public official or public employee who was paid, given or promised to be paid *anything of value* in full or in part from the lobbyist's client, the report must also include:

(a) The name of the executive, legislative or public official or public employee who was paid, given or promised *anything of value*;

(b) A description and the monetary value of *anything of value* paid, given or promised

to such official or employee, with sufficient detail so that the nature of the transfer is clear;

(c) The place and date *anything of value* was paid, given or promised; and

(d) The name of the person who paid, gave or promised to pay *anything of value*.

(4) Each expenditure for the purpose of lobbying must be reported in accordance with the category of the expenditure required in this section and with any additional categories as may be required by rule or regulation of the Secretary of State.

(5) The report due January 30 shall include a cumulative total for the calendar year for all reportable categories.

(6) A lobbyist's client shall maintain contemporaneous records of all expenditures reportable under Sections 5-8-1 through 5-8-19 of this chapter and shall retain such records for a period of two (2) years.

(7) If the State of Mississippi is a lobbyist's client, the State of Mississippi shall be exempt from filing an annual report.

(8) (a) If the entire Legislature and all statewide elected officials are individually invited to a single function, which is sponsored by a lobbyist's client, or a lobbyist on behalf of such client, and is to begin and end within one (1) day, then it shall not be necessary to report the costs related to food and beverages offered for immediate consumption required in subsection three (3) of this section, so long as food and beverages provided at such functions are offered equally to all invitees; however, in all such cases, the amount expended for such functions shall be reported in accordance with the provisions of this subsection.

(b) The report of the expenditure connected with a single function as described in paragraph (a) of this subsection shall be

made by the lobbyist's client and shall include the following:

- (i) The total amount of money expended for the function;
- (ii) The estimated total number of persons in attendance at the function;
- (iii) The estimated total number of public officials in attendance at the function.

Sec. 5-8-11. Report of payments received by lobbyist from each lobbyist's client; exceptions.

(1) Except as otherwise provided in Section 5-8-7 of this chapter, a lobbyist shall file with the Secretary of State a separate report for each lobbyist's client. The report shall specifically list all payments received from the lobbyist's client and all expenditures that were initiated or paid by the lobbyist on behalf of each lobbyist's client during each reporting period required herein.

(2) The report must list expenditures for the purpose of lobbying according to the following categories:

- (a) A payment to the lobbyist for salary, fee, compensation for expenses, or other purpose by the person employing, retaining or contracting for the services of the lobbyist separately or jointly with other persons;
- (b) A payment for those portions of office rent, utilities, supplies and compensation of support personnel attributable to lobbying activities;
- (c) A payment in support of or assistance to a lobbyist or the lobbyist's activities, including the direct payment of expenses incurred at the request or suggestion of the lobbyist;

(d) A payment, including compensation, payment or reimbursement for the services, time or expenses of an employee for or in connection with direct communication with an executive, legislative or public official or public employee, where such communication is made at the request, suggestion or direction of the lobbyist;

(e) A payment for or in connection with soliciting or urging other persons to enter into direct communication with an executive, legislative or public official or public employee, where such communication is made at the request, suggestion or direction of the lobbyist;

(f) A payment or reimbursement for food, beverages, travel, lodging, entertainment or sporting activities;

(g) A purchase, payment, distribution, loan, or forgiveness of a loan or payment of a loan by a third party, advance, deposit, transfer of funds, a promise to make a payment, or a gift of money or *anything of value* for any purpose.

(3) For each executive, legislative or public official or public employee who was paid, given or promised to be paid *anything of value* in full or in part from the lobbyist, the report must also include:

- (a) The name of the executive, legislative or public official or employee who was paid, given or promised *anything of value*;
- (b) A description and the monetary value of *anything of value* paid, given or promised to such official or employee, with sufficient detail so that the nature of the transfer is clear;
- (c) The place and date *anything of value* was paid, given or promised; and
- (d) The name of the person who paid, gave or promised to pay *anything of value*.

(4) Each expenditure for the purpose of lobbying must be reported in accordance with the category of the expenditure required in this section and with any additional categories as may be required by rule or regulation of the Secretary of State.

(5) A report of expenditures must be filed with the Secretary of State no later than January 30 of each year. The report shall contain information on all expenditures paid or initiated by the lobbyist on behalf of each lobbyist's client during the preceding twelve (12) calendar months, and it shall include a cumulative total for the calendar year of all reportable categories.

(6) In addition to the annual report required above, a lobbyist shall file two (2) reports during regular sessions of the Legislature with the Secretary of State on February 25 and within ten (10) days after the Legislature's adjournment *sine die*. Such additional report shall include the name of the executive, legislative, or public official or public employee who receives *anything of value* from the lobbyist or from the lobbyist on behalf of the lobbyist's client, the name of the person receiving the payment, the name of the person making the payment, the amount of the payment and the date of the payment. However, any lobbyist who lobbies local government exclusively shall be exempt from the requirement of filing the reports required by this paragraph.

(7) (a) If the entire Legislature and all statewide elected officials are individually invited to a single function which is sponsored by a lobbyist on behalf of one or more lobbyist's clients and is to begin and end within one (1) day, then it shall not be necessary to report the costs related to food and beverages offered for immediate consumption as required in subsection (3) of this section, so long as food and beverages

provided at such functions are offered equally to all invitees; however, in all such cases, the amount expended for such functions shall be reported in accordance with the provisions of this subsection.

(b) The report of the expenditure connected with a single function as described in paragraph (Section 5-8-11(7)(a) and (b)) of this subsection shall be made by the lobbyist and shall include the following:

(i) The total amount of money expended for the function, reception or meal;

(ii) The total number of persons in attendance at the function, reception or meal;

(iii) The total number of legislators in attendance at the function, reception or meal.

(8) A lobbyist shall maintain contemporaneous records of all expenditures reportable under Section 5-8-1 through Section 5-8-19 of this chapter, and shall retain such records for a period of two (2) years.

Sec. 5-8-13. Prohibited acts; required acts.

(1) A lobbyist shall not contract to receive or accept compensation dependent upon the success or failure of a legislative or executive action.

(2) A lobbyist or lobbyist's client shall not knowingly or willfully make or cause to be made a false statement or misrepresentation of facts to an executive, legislative or public official or public employee, or to the public in general with the intent to affect the outcome of a legislative or executive action.

(3) A lobbyist or lobbyist's client shall not cause a legislative or executive action for the purpose of obtaining employment to lobby in

support of or in opposition to the legislative or executive action.

(4) An executive, legislative, or public official or public employee shall not be a lobbyist, except that he may act as a lobbyist when acting in his official capacity.

(5) A lobbyist must disclose *anything of value* given in whole or in part to any executive, legislative or public official or public employee.

Sec. 5-8-15. Investigations of violations of chapter.

(1) The district attorney of the circuit court of the district wherein an alleged violation occurred shall investigate violations of this chapter.

(2) In addition to a district attorney's authority as set forth in subsection (1) of this section, the Attorney General shall investigate alleged violations of this chapter and use all existing powers granted that office in conducting such investigations.

Sec. 5-8-17. Penalties; Ethics Commission hearings; appeals; investigation by Attorney General of continued non-compliance.

(1) In addition to any other penalty permitted by law, the Secretary of State shall require any person who fails to file a report as required under Section 5-8-1 through Section 5-8-19 of this chapter, or who shall file a report which fails to comply with the material particulars of Section 5-8-1 through Section 5-8-19 of this chapter or any rules, regulations or procedures implemented pursuant to Section 5-8-1 through Section 5-8-19 of this chapter, to be assessed a civil penalty as follows:

(a) Within five (5) calendar days after any deadline for filing a report pursuant to Sections 5-8-1 through 5-8-19 of this chapter, the Secretary of State shall compile a list of those lobbyists and

lobbyists' clients who have failed to file a required report. The Secretary of State shall provide each lobbyist or lobbyist's client who has failed to file such a report notice of such failure by certified mail.

(b) Beginning with the tenth calendar day after which any report shall be due, the Secretary of State shall assess the delinquent lobbyist and delinquent lobbyist's client a civil penalty of fifty dollars (\$50) per day and part of any day until a valid report is delivered to the Secretary of State, up to a maximum of ten (10) days. However, in the discretion of the Secretary of State, the assessing of such fine may be waived if the Secretary of State shall determine that unforeseeable mitigating circumstances, such as the health of the lobbyist, shall interfere with timely filing of a required report.

(c) Filing of the required report and payment of the fine within ten (10) calendar days of notice by the Secretary of State that a required statement has not been filed constitutes compliance with Section 5-8-1 through Section 5-8-19 of this chapter.

(d) Payment of the fine without filing the required report does not in any way excuse or exempt any person required to file from the filing requirements of Section 5-8-1 through Section 5-8-19 of this chapter.

(2) (a) Upon the sworn application of a lobbyist or lobbyist's client against whom a civil penalty has been assessed pursuant to subsection (1), the Secretary of State shall forward the application to the Mississippi Ethics Commission. The commission shall fix a time and place for a hearing and shall cause a written notice specifying the civil penalties that have been assessed against the lobbyist or lobbyist's client and notice of the time and place of the hearing to be served upon the lobbyist or lobbyist's client at least twenty (20) calendar days prior to the hearing date. Such notice may be served by mailing a copy thereof by

certified mail, postage prepaid, to the last known business address of the lobbyist or lobbyist's client.

(b) The commission is authorized to issue subpoenas for the attendance of witnesses and the production of books and papers at such hearing. Process issued by the commission shall extend to all parts of the state and shall be served by any person designated by the commission for such service.

(c) The lobbyist or lobbyist's client shall have the right to appear either personally or by counsel, or both, to produce witnesses or evidence in his behalf, to cross-examine witnesses and to have subpoenas issued by the commission.

(d) A hearing officer shall be appointed by the commission to conduct the hearing. At the hearing, the hearing officer shall administer oaths as may be necessary for the proper conduct of the hearing. All hearings shall be conducted by the commission, who shall not be bound by strict rules of procedure or by the laws of evidence in the conduct of the proceedings, but the determination shall be based upon sufficient evidence to sustain it.

(e) Where, in any proceeding before the commission, any witness fails or refuses to attend upon a subpoena issued by the commission, refuses to testify, or refuses to produce any books and papers the production of which is called for by a subpoena, the attendance of such witness, the giving of his testimony or the production of the books and papers shall be enforced by any court of competent jurisdiction of this state in the manner provided for the enforcement of attendance and testimony of witnesses in civil cases in the courts of this state.

(f) Within fifteen (15) calendar days after conclusion of the hearing, the commission

shall reduce its decision to writing and forward an attested true copy thereof to the last known business address of the lobbyist or lobbyist's client by way of United States first-class, certified mail, postage prepaid.

(3) (a) The right to appeal from the decision of the commission in an administrative hearing concerning the assessment of civil penalties authorized pursuant to this section is hereby granted. Such appeal shall be to the Circuit Court of Hinds County and shall include a verbatim transcript of the testimony at the hearing. The appeal shall be taken within thirty (30) calendar days after notice of the decision of the commission following an administrative hearing. The appeal shall be perfected upon filing notice of the appeal and by the prepayment of all costs, including the cost of the preparation of the record of the proceedings by the commission, and the filing of a bond in the sum of two hundred dollars (\$200), conditioned that if the decision of the commission be affirmed by the court, the lobbyist or lobbyist's client will pay the costs of the appeal and the action in court. If the decision is reversed by the court, the Secretary of State will pay the costs of the appeal and the action in court.

(b) If there is an appeal, such appeal shall act as a supersedeas. The court shall dispose of the appeal and enter its decision promptly. The hearing on the appeal may be tried in vacation, in the court's discretion. The scope of review of the court shall be limited to a review of the record made before the commission to determine if the action of the commission is unlawful for the reason that it was (i) not supported by substantial evidence, (ii) arbitrary or capricious, (iii) beyond the power of the commission to make, or (iv) in violation of some statutory or constitutional right of the appellant. The decision of the court may be appealed to the Supreme Court in the manner provided by law.

(4) If, after forty-five (45) calendar days of the date of the administrative hearing procedure set forth in subsection two (2), the lobbyist or lobbyist's client shall not file a valid report as required by law, the commission shall notify the Attorney General of the delinquency. The Attorney General shall investigate said offense in accordance with the provisions of this chapter.

Sec. 5-8-19. Duties of Secretary of State.

The Secretary of State shall:

(a) Provide forms for registration and for statements required by Sections 5-8-1 through 5-8-19 of this chapter to all persons required to file.

(b) Issue a certificate of registration to a lobbyist registered under the provisions of Sections 5-8-1 through 5-8-19 of this chapter.

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

(d) Publish an annual report summarizing the financial activities of lobbyists and lobbyists' clients, and such annual report shall not include amounts reported pursuant to Section 5-8-9 (8) and Section 5-8-11 (7) for single functions in the calculation of the cumulative total amount of money expended for lobbying purposes.

Sec. 5-8-21. Penalties for intentional violations; prosecution of corporation or association not barred.

Any person who, with intent, violates any of the provisions of this chapter whether acting either individually or as an officer, agent, employee, or counsel of a person, firm, corporation or association, or any person whether acting individually or as the officer, employee, agent or counsel of a firm, corporation or association, who, with intent, causes or participates, either directly or indirectly, in any violation of the provisions

of this chapter shall upon conviction for the first offense be fined not more than one thousand dollars (\$1,000) or imprisoned in the county jail not more than six (6) months or both and upon conviction for a second or any subsequent offense be fined not more than five thousand dollars (\$5,000) or imprisoned in the Penitentiary not more than three (3) years or both. Any association or corporation which, with intent, violates, or causes or participates, either directly or indirectly, in any violation of any of the provisions of this chapter shall, for each offense, upon conviction, be fined not more than five thousand dollars (\$5,000).

The prosecution or conviction of one or more of the officers or employees of such corporation or association shall not be a bar to the prosecution and conviction of the corporation or association for such offense.

Sec. 5-8-23. Severability clause.

If any section, paragraph, sentence, clause, phrase or any part of this chapter passed hereafter is declared to be unconstitutional or void, or if for any reason is declared to be invalid or of no effect, the remaining sections, paragraphs, sentences, clauses, phrases or parts thereof shall be in no manner affected thereby but shall remain in full force and effect.

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