

MAINE STATE LEGISLATURE

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(EMERGENCY)
FIRST SPECIAL SESSION

ONE HUNDRED AND SEVENTH LEGISLATURE

Legislative Document

No. 1954

S. P. 622

In Senate, January 19, 1976

Referred to Committee on State Government. Sent down for concurrence and ordered printed.

HARRY N. STARBRANCH, Secretary

Presented by Senator Reeves of Kennebec.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-SIX

AN ACT Revising Lobbyist Disclosure Procedures.

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the regular session of the 107th Legislature enacted "An Act Revising Lobbyist Disclosure Procedures" and then inadvertently repealed this enactment without adequate replacement; and

Whereas, it is essential to the integrity of the legislative process that there be complete and workable regulation of lobbyists appearing before the Legislature at all times; and

Whereas, in order to ensure this regulation during the special session of the Legislature beginning January 19, 1976, it is necessary that this legislative proposal be enacted and take effect as soon as possible; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

Be it enacted by the People of the State of Maine, as follows:

Sec. 1. 3 MRSA c. 15, as last repealed by PL 1975, c. 621, § 2, is reenacted to read:

CHAPTER 15
LOBBYIST DISCLOSURE PROCEDURES

§ 311. Declaration of purpose

The Constitution of Maine guarantees the right of the people to petition their government for the redress of grievances and to freely express their opinions on legislation and issues. The Legislature reaffirms its obligation to hear the requests and opinions of all of the people, and to preserve and maintain the integrity and accessibility of the legislative process.

The Legislature recognizes that groups of citizens may choose one among them to present their views to Legislators, and, because of the amount and complexity of proposed legislation, may employ persons knowledgeable in the legislative process to present their views. Such activities are proper methods of expressing the opinion of a group of citizens.

The Legislature also recognizes that such activities must be carried out openly so that other citizens are aware of the opinions and requests made in this manner. Legislative decisions can fully reflect the will of all the people only if the opinions expressed by any citizen are known to all and debated by all, and if the representatives of groups of citizens are identified and their expenditures and activities are regularly disclosed.

Therefore, the Legislature declares that, in order to insure the full participation of all the people of the State in the legislative process, full disclosure of the identity, expenditures and activities of any persons who engage in professional lobbying is required. Such disclosure will insure the openness and integrity of the legislative process and encourage the expression of the will of all the people of the State.

§ 312. Definitions

As used in this chapter, unless the context otherwise indicates, the following words and phrases shall have the following meanings.

1. Compensation. "Compensation" means money, service or anything of value or financial benefit which is received or to be received in return for or in connection with services rendered or to be rendered.

2. Employer. "Employer" means one who agrees to reimburse for expenditures or to compensate an individual who in return agrees to provide services.

3. Employment. "Employment" means an agreement to provide services in exchange for compensation or reimbursement of expenditures.

4. Expenditure. "Expenditure" means any advance, conveyance, deposit, distribution, transfer of funds, payment, pledge or subscription of money or anything of value or any contract, promise or agreement to transfer funds or anything of value, whether or not legally enforceable.

5. Gift. "Gift" means a payment, subscription, advance, rendering or deposit of money, services or anything of value, unless consideration of equal

value is received. "Gift" shall not mean a political contribution otherwise reported as required by law, or a commercially reasonable loan made in the ordinary course of business, but shall mean forbearance to collect any debt.

6. Immediate family. "Immediate family" means a person's spouse, parents and children.

7. Legislative action. "Legislative action" means introduction, sponsorship, debate, amendments, passage, approval, defeat or any other official action relating to any bill, resolution, amendment or any other matter pending or proposed in a legislative committee or in either House of the Legislature or any matter which is within the jurisdiction of the Legislature.

8. Lobbying. "Lobbying" means communicating directly or soliciting others to communicate with any official in the Legislative Branch for the purpose of influencing any legislative action, when such activities are engaged in pursuant to employment.

9. Lobbyist. "Lobbyist" means any person who engages in lobbying, including any officer, agent, counsel or employee who is paid a regular salary or retainer and whose duties specifically include lobbying.

10. Media expenditure. "Media expenditure" means an expenditure for the purchase of space, and preparation of any material to be used, in any newspaper or other regularly published periodical, or for the purchase of time, and preparation of material to be used, on any radio or television station, if such expenditure is for the purpose of influencing directly or indirectly any legislative action.

11. Official in the Legislative Branch. "Official in the Legislative Branch" means a member, member-elect, candidate for or officer of the Legislature, or an employee of the Legislature.

12. Person. "Person" means an individual, a business, corporation, association, labor union, firm, partnership, committee, club or other organization, whether profit or nonprofit.

13. Public official. "Public Official" means any officer or employee in any branch of State Government, or of the Federal Government, or any officer or any political subdivision of the State.

14. Reimbursement. "Reimbursement" means any money or anything of value received or to be received as repayment for expenditures.

15. Year. "Year" means calendar year.

§ 313. Those required to register; fees

1. Lobbyist. Any person accepting employment to act as a lobbyist shall register, except a person who receives or will receive compensation or reimbursement pursuant to employment as a lobbyist, in any year, that totals, from all employers, less than \$250. Registration shall be at the office of the Secretary of State within 2 business days after acceptance of such employment or after receipt of more than the \$250 total in any year, and a fee of \$10 shall be paid for such registration. If a person required to register accepts employ-

ment as a lobbyist from more than one employer, he shall register each such employment and pay a \$10 fee for each such registration.

2. Employers. Any person who employs a lobbyist shall register, except a person who expends or will expend a total of less than \$250 in any year for lobbying or employing lobbyists. Registration shall be at the office of the Secretary of State within 2 business days after employment of a lobbyist or expenditure of more than the \$250 total in any year and a fee of \$25 shall be paid for such registration. If a person required to register employs more than one lobbyist, he shall register for each lobbyist employed, but shall pay no additional fee.

§ 314. Public official not required to register

A person shall not be required to register with the Secretary of State if he is a public official acting within the scope of his employment.

§ 315. Duration of registration

Each registration required pursuant to this chapter shall be valid until the last day of the year in which registration occurs. Such registration must be renewed within the first 10 days of the subsequent year to remain valid, and each renewal of registration shall be accompanied by the fee required at the time of the original registration. Upon termination of employment of a lobbyist, the fact of termination and the date thereof shall be reported to the Secretary of State by the employer within 30 days of such termination. Termination of such employment shall not relieve the lobbyist or employer of the reporting requirements of this chapter.

§ 316. Registration docket; information to be included; maintenance and inspection

The Secretary of State shall prepare and keep a docket for the registration of lobbyists and their employers, which docket shall be open to public inspection during the office hours of the Secretary of State and shall contain the name of each lobbyist and his employer, the business address of the employer, the business address of the lobbyist, the nature of business of the employer, and the nature, value and terms of the compensation paid or to be paid to the lobbyist. Such docket shall be continuously updated and shall be arranged and indexed as follows:

1. Under name of employer. Under the names of each employer shall appear all information filed by him in connection with each registration required, including the name of each lobbyist employed by him and required information concerning such lobbyists;

2. Under name of lobbyist. Under the name of each lobbyist shall appear all information filed by him in connection with each registration required, including the name of each employer and required information concerning such employer.

Upon termination of the employment of a lobbyist and the reporting of such termination by the employer, the fact of such termination and the date thereof shall be entered under the name of the employer and lobbyist.

Such docket shall be reestablished annually by the Secretary of State and the docket for any year shall be maintained and be available to the public for 4 years in the office of the Secretary of State.

§ 317. Summary of activities

It shall be the duty of every lobbyist required to register under section 313, to file with the Secretary of State between the first and 15th calendar days of each month subsequent to a month in which he was employed as a lobbyist a report concerning his activities as a lobbyist during the previous month. He must file a separate activity report for each employer from whom he has accepted employment as a lobbyist. Such report shall be on a form prescribed by the Secretary of State and shall include:

1. Registration information. A complete and current restatement of the information required to be supplied under section 316;
2. Compensation. Compensation received or due to be received for activities as a lobbyist during the previous month;
3. Expenditures. Total expenditures during the previous month for activities as a lobbyist for which reimbursement has been made or is expected. Such expenditures shall be itemized, by amount of expenditure, date of expenditure, and the purpose of the expenditure, including office expenses, meals, lodging, travel and other expenses;
4. Scope of activity. Scope of activity as a lobbyist in terms of approximate hours or days expended and the number of appearances before legislative committees, including identification of the legislation involved.

All information contained in such reports shall be so arranged and indexed by the Secretary of State that it becomes a part of the registration docket required by section 316 and is open to public inspection.

§ 318. Statement of expenditures

It shall be the duty of every employer required to register under section 313 to file an itemized report of expenditures in the office of Secretary of State within 30 days after the adjournment of each session of the Legislature and during the last 10 days of each calendar year. Each such report shall be filed on a form provided by the Secretary of State and shall show in detail all expenditures by such employer connected with lobbying during each session and each year, with the names of payees, the amount paid to each, including all disbursements paid to or promised to lobbyists and specifying legislative matter in connection with which such expenditures were made.

All information contained in such expenditure reports shall be so arranged and indexed by the Secretary of State that it becomes a part of the registration docket required by section 316 and is open to public inspection.

§ 319. Media expenditures

It shall be the duty of every person, whether or not a lobbyist or employer of a lobbyist, who incurs total media expenses in excess of \$500 for the pur-

pose of promoting or opposing, directly or indirectly, any legislative matter, to file with the Secretary of State within 15 days of such expenditure on a form provided by the Secretary of State a list of any and all such media expenditures.

All information contained in such reports shall be so arranged and indexed by the Secretary of State that it becomes a part of the registration docket required by section 316. Information contained in such reports shall also be included in the report required by section 318 if the person who incurs the media expenditure is also required to file such report.

§ 320. Records

Any person required to register or report pursuant to this chapter shall obtain and preserve all accounts, bills, receipts, books, papers and documents necessary to substantiate such registration or report for 4 years from the date of filing such report. Upon request of the Secretary of State, such materials shall be made available for inspection.

§ 321. Verification of information

Any information required to be filed with the Secretary of State pursuant to this chapter shall be verified by the oath of the person required to file or in the case of a firm, a member thereof or in the case of a domestic corporation or association by an officer thereof or in the case of a foreign corporation or association of an officer or agent thereof.

§ 322. Restricted activities

1. Gifts. No lobbyist, employer of a lobbyist or person required to register or report under the provisions of this chapter shall give to an official in the legislative branch or a member of his immediate family gifts that exceed \$50 in the aggregate in any calendar year.

2. Solicitation. No official in the legislative branch or member of his immediate family shall solicit or accept anything of value in violation of subsection 1.

3. Contingent compensation. No person shall employ or be employed as a lobbyist for compensation contingent in any manner upon the outcome of any legislative action.

§ 323. Penalties

1. Perjury. The penalty for willfully and knowingly filing incorrect or incomplete information in a registration or report required by this chapter shall be that provided for perjury.

2. Fine or imprisonment. The penalty for willfully or knowingly failing to file a registration or report as required by this chapter, or for violating a provision of section 322 shall be a fine of not more than \$1,000 or imprisonment for not more than 11 months, or both.

§ 324. Enforcement

The provisions of this chapter may be enforced by the Attorney General, upon the request of the Secretary of State.

§ 325. Disposition of fees

All fees collected pursuant to this chapter shall be used by the Secretary of State for the administration of this chapter. The Secretary of State may use these fees to hire personnel to serve at his pleasure and to assist him in administering this chapter.

Fees collected in any one year may be used in the same or any succeeding year; and all fees collected under Title 3, chapter 15 as in effect on December 31, 1975, are to be used in all respects as though they were originally collected pursuant to this chapter.

§ 326. Powers and duties of the Secretary of State

In order to carry out the purposes of this chapter, the Secretary of State shall have the following powers and duties:

1. Rules and regulations. The Secretary of State may prescribe and publish, after notice and opportunity for public comment, rules and regulations required to carry out this chapter, provide complete, useful and accessible information to the public and to accurately and completely identify lobbyist activities and expenditures. Such rules and regulations may include:

A. Forms for registration and reports;

B. Procedures for public inspection of the records, reports and rulings and for copying of such records, reports and rulings during regular office hours;

C. The arrangement and indexing of all dockets and files, consistently with the requirements of this chapter;

D. The preservation of registrations and reports;

E. Detailed standards and specifications for the date required to be reported or filed under this chapter;

F. Procedures and information required of firms, partnerships, associations, committee and other unincorporated organizations to insure full disclosure of their lobbying activities and compliance with the intent of section 311;

G. Procedures for the submission, consideration and disposition of requests for advisory rulings and guidelines of the subject matters and areas on which rulings will be given; and

H. Any other rule or regulation required to implement, interpret or make specific this chapter or to describe the procedures or practice requirements to be used in implementing this chapter.

2. Advisory rulings. The Secretary of State may make an advisory ruling on the written request of any person, with respect to the applicability to any person or state of facts of this chapter or rule or regulation issued under this chapter. Such advisory ruling shall be in writing and shall be open to public inspection. Such ruling shall not be binding upon the Secretary of State,

provided that in the event any person takes any action in reliance on such ruling and such ruling is later reversed, such reliance shall be considered in mitigation of any penalty that may be assessed for action taken in reliance on the prior ruling.

3. **Forms.** The Secretary of State shall furnish forms to persons required to register or file statements on forms.

4. **Copy facilities.** The Secretary of State shall make copying facilities available to the public during regular office hours and, notwithstanding any other provisions of law fixing the cost of such services, shall charge the actual cost of such services.

5. **Voluntary information.** The Secretary of State shall accept and file any information voluntarily supplied which exceeds the requirements of this chapter.

6. **Preserve and dispose of records.** The Secretary of State shall preserve all registrations and reports filed pursuant to this chapter for 4 years from date of receipt and thereafter dispose of same.

Sec. 2. Application to registration and reports. Registrations as a lobbyist or employer that would be required under Title 3, chapter 15, as enacted herein, prior to the effective date of this Act shall be completed within 2 business days after the effective date of this Act. Reports that would be required to be filed under Title 3, chapter 15, as enacted herein, prior to the effective date of this Act shall be filed within 15 calendar days after the effective date of this Act. Such reports shall not be consolidated but shall be filed separately for each month of lobbying.

Emergency clause. In view of the emergency cited in the preamble, this Act shall take effect when approved and shall, subject to the provisions of section 2, be retroactive to January 19, 1976.

STATEMENT OF FACT

This bill will reenact chapter 576 of the public laws of 1975, "An Act Revising Lobbyist Disclosure Procedures," which was inadvertently repealed during the last legislative session with the following changes:

1. Any lobbyist who receives less than \$250 in a year from all employers for lobbying activities is exempted from registering and reporting;

2. All federal and state employees and officers or employees of political subdivisions of the State are exempted from registration;

3. The fees collected by the Secretary of State may be used to hire personnel to serve at his pleasure and to assist him in administering this chapter; and such fees shall not lapse;

4. The rules and regulations authority of the Secretary of State are detailed;

5. The Secretary of State is given authority to make advisory rulings; and

6. The Act is an emergency bill retroactive to January 19, 1976, with appropriate adjustments in registration and reporting deadlines.