

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

New Draft of: S. P. 622, L. D. 1954
FIRST SPECIAL SESSION

ONE HUNDRED AND SEVENTH LEGISLATURE

Legislative Document

No. 2312

S. P. 765

In Senate, March 19, 1976

Reported by Majority from the Committee on State Government and
printed under Joint Rules No. 18.

HARRY N. STARBRANCH, Secretary

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-SIX

AN ACT Revising Lobbyist Disclosure Procedures.

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

3 MRSA c. 15, as last repealed by PL 1975, c. 621, § 2, is reenacted to read: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. **Committee.** "Committee" means any committee, subcommittee, or joint or select committee of the Legislature.

2. **Communicate.** "Communicate" means the act of expressing, imparting or conveying information or impressions from one person to another, by any means.

3. **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.

4. **Employer.** "Employer" means a person who agrees to reimburse for expenditures or to compensate a person who in return agrees to provide services.

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

6. **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.

7. **Legislative action.** "Legislative action" means the drafting, introduction, consideration, modification, enactment or defeat of any bill, resolution, amendment, report, nomination or other matter by the Legislature or by either House or by any committee or by an official in the Legislative Branch acting in his official capacity.

8. **Lobbying.** "Lobbying" means to communicate directly with any official in the Legislative Branch for the purpose of influencing any legislative action, when reimbursement for expenditures or compensation is made for such activities. Lobbying shall not include:

A. A communication by any individual acting solely on his own behalf, or by an individual who receives or will receive compensation or reimbursement for activities otherwise constituting lobbying in any year, that totals, from all employers, less than \$500;

B. Any communication made by a person in response to an inquiry or request for information by an official in the Legislative Branch; or

C. Any communication by an individual officially representing a recognized religious society, when the communication is solely to protect the

constitutional rights of the members of the society to freely exercise their religion, and the communication is not to impose the political, moral or ethical views of a religious society on others, to express the political views of the society, or to seek economic advantage or benefit for the religious society.

9. Lobbyist. "Lobbyist" means any person who is specifically employed by another person for the purpose of and who engages in lobbying; or any person who, as a regular employee of another person, engages in lobbying. "Lobbyist" shall include an individual who is a partner, associate, member or employee of a partnership, firm, corporation or professional association which has been employed for lobbying when such individual is acting for the lobbyist in representing the employer.

10. 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.

11. Person. "Person" means an individual, business, corporation, association, professional association, labor union, firm, partnership, club or other organization, whether profit or nonprofit, or any quasi-municipality, but does not include the State of Maine, any county, any municipality, any agency of the State of Maine, the University of Maine or Maine Maritime Academy.

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

13. Year. "Year" means calendar year.

§ 313. Registration of lobbyists and employers

Any person acting as a lobbyist and the person who employs that lobbyist shall jointly register at the office of the Secretary of State no later than 5 business days after the commencement of activities constituting lobbying and a fee, as determined by the Secretary of State, shall be paid for such joint registration.

§ 314. Duration of registration

Each joint registration required pursuant to this chapter shall expire on the last day of the year in which such registration occurred. 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 employment shall not relieve the lobbyist or employer of the reporting requirements of this chapter.

§ 315. Registration docket

The Secretary of State shall prepare and maintain a docket for the registration of lobbyists and employers of lobbyists required to register pursuant to this chapter. The registration docket and all supplementary files of information and materials filed pursuant to this chapter shall be open to public inspection during the office hours of the Secretary of State. Such docket shall contain the name of the lobbyist and the person employing the lobbyist; the business address of each; the nature of the business of the person employing the lobbyist; and a statement as to the compensation which the lobbyist will

receive for his services or, if an exact amount is unascertainable, the basis upon which the lobbyist will charge for his services. This docket shall be updated on a weekly basis and shall be arranged and indexed as follows:

1. Employers of lobbyists. An alphabetical listing of those persons who have employed a lobbyist, which listing shall indicate the names of all lobbyists employed by the employer; and
2. Lobbyists. An alphabetical listing of those persons employed as lobbyists, which listing shall indicate the names of all persons by whom each lobbyist is employed.

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 both the employer and the lobbyist.

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

§ 316. Registration forms

The Secretary of State shall prepare and make available registration forms for the registration of lobbyists and employers required to register pursuant to section 313. These forms shall require the following information:

1. Names. The name of the lobbyist and the name of the person employing such lobbyist;
2. Business addresses. The business address of both the lobbyist and the person employing such lobbyist;
3. Date. The date upon which lobbying was commenced or expect to be commenced;
4. Nature of business. A description of the nature of the business of the person employing such lobbyist; and
5. Compensation. The amount of compensation which the lobbyist will receive for his services or, if an exact amount is unascertainable, the basis upon which the lobbyist will charge for his services.

These forms shall be signed by both the lobbyist and the employer.

§ 317. Reports

1. Monthly session reports. During the period in which the Legislature is in session, every lobbyist shall file with the Secretary of State, no later than 15 calendar days subsequent to the conclusion of the preceding month, a report concerning his lobbying activities for the previous month. A lobbyist shall file a separate report for each employer which he has served as a lobbyist. This report shall be on a form prescribed by the Secretary of State and shall contain a complete and current restatement of the information required to be supplied pursuant to section 316 and the following information:

A. Compensation. Compensation received or due to be received for lobbying or any activities directly connected with lobbying, including, but not limited to, research, drafting, consultation or other preparation not otherwise reported, during the previous month. In the case of a regular employee, such amount shall be the number of hours of activities as a lobbyist multiplied by the employee's regular rate of pay;

B. Expenditures. Total expenditures during the previous month for activities as a lobbyist for which reimbursement has been received or is expected. Such expenditures shall be itemized, by amount of expenditure, date of expenditure, and the purpose of the expenditure, including but not limited to, meals, lodging, travel and other expenses;

C. The total amount of moneys expended directly to or on behalf of one or more officials in the Legislative Branch, including their immediate family, as defined in Title 1, section 1012, subsection 2, and the amount, if any, which the lobbyist has been or expects to be reimbursed by the employer;

D. The name of any officials in the Legislative Branch or their immediate family to whom or on whose behalf an expenditure or expenditures totaling in excess of \$25 was made in any one calendar month and the date, amount and purpose of such expenditure or expenditures;

E. A listing of each Legislative Document, Senate Paper or House Paper in connection with which the lobbyist engaged in the lobbying; and

F. A listing specifically identifying any Legislative Document, Senate Paper or House Paper for which the lobbyist was compensated, expects to be compensated, or expended, in excess of \$1,000 for lobbying activities related thereto and a statement of the amounts compensated, expected to be compensated, or expended in conjunction therewith.

2. Post-session reports. Within 30 days following the adjournment of a session of the Legislature the lobbyist and his employer shall file a joint report which shall contain all the information required in subsection 1 and shall summarize all compensation, expenditures and Legislative Documents, beginning with January 1st and through the date of adjournment.

3. Annual reports. Within 30 days following the end of the year, the employer of a lobbyist and the lobbyist shall file a final report, on a form prescribed by the Secretary of State, containing all the information required in subsection 1, and shall summarize all compensation, expenditures and legislative documents of the lobbyist or employer, for the preceding year.

§ 318. Verification of information

Any information required to be filed with the Secretary of State pursuant to this chapter shall be verified as complete and accurate by the oath or affirmation 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.

§ 319. Restricted activities

1. Contingent compensation. No person shall accept employment as a lobbyist on a basis which makes that person's compensation contingent in any manner upon the outcome of any legislative action.

2. Instigation of legislative action. No person shall instigate the introduction or commencement of any legislative action for the purpose of obtaining employment as a lobbyist to oppose or support such legislative action.

§ 320. 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 section 319, shall be a fine of not more than \$1000 or imprisonment for not more than 11 months, or both.

§ 321. 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.

The Secretary of State shall, no later than December 15th of each year, establish the amount of the registration fee required to be paid pursuant to section 313 for the subsequent year, except that the registration fee for the year 1976 shall be \$15. Such fees shall be established on a basis that will generate sufficient revenue to administer the filing and reporting requirements of this chapter but such fees shall not, in any case, unreasonably exceed the amount necessary to administer the filing and reporting requirements of this chapter. All fees collected under this chapter as in effect on December 31, 1975, are to be used in all respects as though they were originally collected pursuant to this chapter. Fees collected in any one year may be used in the same or any succeeding year to administer this chapter and such funds shall not lapse.

§ 322. 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. Furnishing of forms. The Secretary of State shall furnish forms to register or file reports.

2. Availability of copying 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.

3. Filing of voluntary information. The Secretary of State may accept and file any information voluntarily supplied which exceeds the requirements of this chapter.

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

§ 323. **Enforcement**

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

STATEMENT OF FACT

The purpose of this Act is to require disclosure by lobbyists of information relating to their employers and compensation or reimbursement received for their lobbying activities. This disclosure is vitally important to insure that the legislative process is free and open. Balanced against this imperative is the interest of all citizens to speak freely and to petition their government to redress grievances. This Act balances these 2 great interests in order to protect the legislative process and insure an open and orderly forum for the debate and resolution of issues.

This Act limits the definition of "lobbying" to direct communications with officials in the Legislative Branch and expressly excludes communications by individuals acting solely on their own behalf and lobbying activities for which less than \$500 is received in any one year. Also expressly excluded are communications made in response to an inquiry or request of an official in the Legislative Branch or made solely to protect the constitutional right to freely exercise religious precepts. These express exemptions are included to protect constitutional rights and to remove from the registration and reporting requirements, individuals who, because of their limited lobbying activities, would be unduly burdened by these requirements. Also excluded from the lobbyist requirements are the representatives of counties and municipalities, though the representatives of quasi-municipalities are included. This distinction is drawn on the basis that counties and municipalities are agencies of the State and in themselves, represent the citizens of the State; while quasi-municipalities may represent certain private interests as well as public interests, and thus should be included in these requirements.

This Act, unlike other proposals, also specifically includes in the definition of "lobbyists," "an individual who is a partner, associate, member or employee of a partnership, firm, corporation or professional association which has been employed for lobbying when such individual is acting for the lobbyist . . ." This situation requires clarification and inclusion of such individuals is consistent with the treatment of other employees, etc., who are actually present in the legislative halls. Thus, the reporting and registering requirements are uniformly applied to all individuals actually lobbying, rather than excluding one group of individuals as a special case, because of their agency or employee relationship.

Registration and reporting of lobbyists and employers is required, with both submitting one form together. During the legislative session, reports

are required on a monthly basis, with a final session report, including a summary of session activities, required no later than 30 days following adjournment. A year-end summary report is also required. These reports will disclose the compensation paid to lobbyists for lobbying, including compensation for activities directly related to lobbying, including research, drafting or other preparation for lobbying. These specific inclusions are made to insure that the full value of lobbying activities is reported, rather than just the value of the time spent in direct communication with an official in the Legislative Branch. Expenditures made by lobbyists and specific identification of legislation are also included in the reporting requirements. Reporting of funds expended on behalf of or given to a member of the Legislature is also required.

The legislation does not require those persons required to register to retain books, records and documents to verify their reports.

This Act is designed and intended to insure the constitutional rights of citizens, while, at the same time, requiring the provision of certain information in order that the public can become aware of the identity and activities of individuals compensated to engage in significant lobbying activities.

Examples of proposed forms required under this Act, for the guidance of the Secretary of State, are as follows:

.....
Date accepted and filed

LOBBYIST & EMPLOYER JOINT REGISTRATION

....., 19...

TO THE SECRETARY OF STATE, AUGUSTA, MAINE

In accordance with the provisions of 3 MRSA § 314, the persons named herein as "Lobbyist" and "Employer of Lobbyist" hereby register and represent that the lobbyist or lobbyists named herein will communicate directly with officials in the Legislative Branch for the purpose of influencing legislative action and that said lobbyist or lobbyists named herein will be compensated or reimbursed for expenditures in conjunction with those activities.

LOBBYIST

EMPLOYER OF LOBBYIST

.....
Name (Type or print)

.....
Name (Type or print)

.....
Signature

.....
Signature

.....
Business address

.....
Business address

.....
Name (Type or print)

.....
Signature

.....
Business address

1. Date upon which lobbying activities were commenced or expect to be commenced.
2. Nature of business of employer of lobbyist.
.....
.....
3. The amount of compensation which the lobbyist will receive for his services, or, if an exact amount is unascertainable, the basis upon which the lobbyist will charge for his services.
.....

A registration fee in the amount of must accompany this registration. Checks should be made payable to "Secretary of State."

.....
Date accepted and filed

LOBBYIST DISCLOSING MONTHLY SESSION REPORT

....., 19...

To the Secretary of State, Augusta, Maine

In accordance with the provisions of 3 MRSA § 314, the following monthly session report is filed for activities during the month of

LOBBYIST

EMPLOYER OF LOBBYIST

.....
Name (Type or print) Name (Type or print)

.....
Business address Business address

1. Date upon which lobbying activities were commenced
 2. Nature of business of employer
 3. The amount of compensation which the lobbyist will receive or is due to receive for his services, including compensation for activities directly connected with lobbying, including, but not limited to, research, drafting or other preparation.
.....
 4. The amount of compensation received or due to be received for lobbying or activities directly connected with lobbying, including, but not limited to, research, drafting or other preparation, during the month which is the subject of this report is:
- (For regular employees, this amount is determined by multiplying the number of hours of activities as a lobbyist by the employee's regular rate of pay.)
5. The total expenditures made during the month which is the subject of this report for which the lobbyist has been or expects to be reimbursed by

L.D.	Compensation	Expenditures
.....
.....

.....
(Signature of lobbyist)

* * * * *

.....
(Signature of employer)

County of, ss., 19...

Personally appeared before me the above
(Name of lobbyist)

who does hereby make oath that the statements and information contained
in the foregoing report are true.

Before me,

Notary Public/Justice of the Peace

My commission expires

** **** **

County of, ss., 19...

Personally appeared before me the above
(Name of employer or representative)

who does hereby make oath that the statements and information contained
in the foregoing report are true.

Before me,

Notary Public/Justice of the Peace

My commission expires