

MAINE STATE LEGISLATURE

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118th MAINE LEGISLATURE

FIRST SPECIAL SESSION-1997

Legislative Document

No. 1818

H.P. 1281

House of Representatives, April 17, 1997

An Act to Strengthen Existing Lobbying Laws.

Reference to the Committee on Legal and Veterans Affairs suggested and ordered printed.

A handwritten signature in cursive script that reads "Joseph W. Mayo".

JOSEPH W. MAYO, Clerk

Presented by Representative ETNIER of Harpswell.
Cosponsored by Representatives: AHEARNE of Madawaska, DAVIDSON of Brunswick,
MITCHELL of Portland, TRIPP of Topsham.

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

2
4 **Sec. 1. 3 MRSA §312-A, sub-§5**, as enacted by PL 1983, c. 160, §1, is amended to read:

6 **5. Employer.** "Employer" means a person who agrees to
8 reimburse for expenditures or to compensate a person who in
10 return agrees to provide services. ~~Employer~~ "Employer" includes
12 any political action committee as defined in this section which
14 that communicates through or uses the services of a lobbyist to
16 make campaign contributions or to influence in any way the
18 political process. "Employer" does not include an officer,
employee, member, shareholder or partner of a corporation,
proprietorship, joint stock company, business trust, syndicate,
association, professional association, labor union, firm,
partnership, club or other organization, whether profit or
nonprofit, or municipality or quasi-municipality or group or
persons acting in concert who engages a lobbyist.

20 **Sec. 2. 3 MRSA §312-A, sub-§10**, as repealed and replaced by PL
22 1993, c. 691, §5, is amended to read:

24 **10. Lobbyist.** "Lobbyist" means any person who is
26 specifically employed, retained or contracted by another person
28 for the purpose of and who engages in lobbying in excess of 8
30 hours in any calendar month, or any individual who, as a regular
employee of another person, expends an amount of time in excess
of 8 hours engages in lobbying on 3 or more days in any calendar
month in lobbying. "Lobbyist" does not include a lobbyist
associate.

32 **Sec. 3. 3 MRSA §312-A, sub-§10-A**, as repealed and replaced by
34 PL 1993, c. 691, §6, is repealed and the following enacted in its
place:

36 **10-A. Lobbyist associate.** "Lobbyist associate" means:

38 A. An individual who is a partner, associate or employee of
40 a lobbyist who is employed, retained or contracted by
42 another person for the purpose of lobbying if the individual
lobbies on behalf of the employer named on the lobbyist
registration; or

44 B. An individual who:

46 (1) Is a coemployee of a regular employee of another
48 person if that regular employee is registered as a
lobbyist;

2 (2) Lobbies on behalf of the employer named on the
3 lobbyist registration; and

4 (3) Engages in lobbying on 3 or more days in any
5 calendar month.

6 **Sec. 4. 3 MRSA §312-A, sub-§10-C is enacted to read:**

7 10-C. Nonpecuniary benefit. "Nonpecuniary benefit" means a
8 benefit that is not a pecuniary benefit, as defined in subsection
9 12-A.

10 **Sec. 5. 3 MRSA §312-A, sub-§12-A is enacted to read:**

11 12-A. Pecuniary benefit. "Pecuniary benefit" means any
12 advantage in the form of money, property, commercial interest or
13 anything else, the primary significance of which is economic
14 gain; it does not include economic advantage applicable to the
15 public generally, such as a tax reduction or increased prosperity
16 generally. "Pecuniary benefit" also does not include:

17 A. A meal if the meal is provided by industry or special
18 interest organizations as part of an informational program
19 presented to a group of public servants;

20 B. A subscription to a newspaper, news magazine or other
21 news publication;

22 C. A gift from a relative as defined in Title 1, section
23 1012, subsection 8; or

24 D. A campaign contribution duly recorded and reported as
25 required by law.

26 **Sec. 6. 3 MRSA §312-A, sub-§13-A is enacted to read:**

27 13-A. Regular employee of another person. "Regular
28 employee of another person" means an individual who, as part of
29 the individual's regular and usual employment, engages in
30 lobbying on behalf of the person by whom the individual is
31 employed.

32 **Sec. 7. 3 MRSA §313, as amended by IB 1997, c. 1, §7 is**
33 **further amended to read:**

34 **§313. Registration of lobbyist and employers**

35 Every employer of a lobbyist and every lobbyist and lobbyist
36 associate who lobbies on behalf of that employer shall register
37 jointly at the office of the commission no later than 15 5

2 business days after commencement of lobbying and pay a
3 registration fee determined by the commission. The fee must be
4 at least \$\$400 for the registration of each lobbyist and at least
5 \$200 for the registration of each lobbyist associate.

6 **Sec. 8. 3 MRSA §314, 2nd ¶**, as repealed and replaced by PL
7 1993, c. 691, §12, is amended to read:

8
9 A joint registration expires if the employer notifies the
10 commission in writing that the lobbyist and any lobbyist
11 associate is no longer engaged by the employer to lobby. If
12 termination occurs prior to November 30th, the notification must
13 be given within 30 days of the termination.

14
15 **Sec. 9. 3 MRSA §315, sub-§1**, as amended by PL 1993, c. 446,
16 Pt. A, §12 and affected by §20, is further amended to read:

17 **1. Employers of lobbyists.** An alphabetical listing of these
18 ~~persons who have employed a lobbyist, which listing must indicate~~
19 employers that indicates the names of all lobbyists and lobbyist
20 associates employed by the employer; and

21
22 **Sec. 10. 3 MRSA §316**, as amended by PL 1993, c. 691, §16, is
23 further amended to read:

24
25 **§316. Registration forms**

26
27 The commission shall prepare and make available registration
28 forms for the registration of lobbyists, lobbyist associates and
29 employers required to register pursuant to section 313. These
30 forms must include the following information:

31
32 **1. Names.** The name of the lobbyist, a list of the lobbyist
33 associates, the name of the person authorized by the lobbyist to
34 sign the registration and reports for the lobbyist and the name
35 of the person employing the lobbyist;

36
37 **2. Business addresses.** The business address of both the
38 lobbyist, the lobbyist associate and the person employing the
39 lobbyist and lobbyist associate;

40
41 **3. Date.** The date upon which lobbying commenced or was
42 expected to commence; or, if the lobbyist or lobbyist associate
43 is a regular employee of another person, the date or dates upon
44 which lobbying was conducted prior to registering. If no
45 lobbying was conducted prior to registering, the lobbyist must
46 state that fact;

47
48

2 **4. Nature of business.** A description of the nature of the
business of the person employing that lobbyist and lobbyist
3 associate; and

4
5 **5. Compensation.** The amount of compensation that the
6 lobbyist will receive for that lobbyist's services or, if an
exact amount is unascertainable, the basis upon which the
7 lobbyist will charge for those services.

8
9 These forms must be signed by both the lobbyist and the
10 employer and the signatures serve as a certificate that the
11 information on that form is true, correct and complete.

12
13 **Sec. 11. 3 MRSA §316-B** is enacted to read:

14 **§316-B. Lobbyist identification**

15 A person who is required to register as a lobbyist or
16 lobbyist associate under section 313 shall wear a clearly visible
17 name tag when lobbying in the State House, the State Office
18 Building or in another facility in which official legislative
19 business is being conducted. The name tag must be at least 1 1/2
20 inches high and 2 1/2 inches long. The name tag must consist of
21 the lobbyist's or lobbyist associate's first and last name and
22 the term "lobbyist" or "lobbyist associate."

23 **Sec. 12. 3 MRSA §317, sub-§1**, as amended by PL 1993, c. 691,
24 §19, is further amended to read:

25 **1. Monthly session reports.** During the period in which the
26 Legislature is in session, every registered lobbyist shall file
27 with the commission, no later than 15 calendar days subsequent to
28 the conclusion of the preceding month, a report concerning the
29 lobbyist's and lobbyist associate's activities for the previous
30 month regarding each employer.

31 Every lobbyist shall report that lobbyist's and lobbyist
32 associate's lobbying activities for each month that the
33 Legislature is in session, even if no lobbying has been performed
34 or compensation or reimbursement for expenses received for the
35 month. In the case of a lobbyist or lobbyist associate
36 representing multiple employers, if no lobbying or services in
37 support of lobbying were performed, one report listing each
38 employer on whose behalf no lobbying was conducted may be
39 submitted. The activity and compensation of each lobbyist and
40 lobbyist associate must be itemized separately, but the report
41 may be filed on a single form to be prescribed by the
42 commission. The monthly report must contain the following
43 information:

2 A. The month to which the report pertains;

4 B. The name and address of the lobbyist, any lobbyist
associate and the employer;

6 C. The names of the individuals who lobbied during the
8 month;

10 D. The specific dollar amount of compensation received for
12 the preparation of documents and research for the primary
14 purpose of influencing legislative action and for lobbying;

16 In the case of a regular employee of another person, the
18 specific dollar amount must be computed by multiplying the
number of hours devoted to the preparation of documents and
research for the primary purpose of influencing legislative
action and to lobbying by the employee's regular rate of pay
based on a 40-hour week;

20 E. The specific dollar amount of expenditures made during
22 the month that is the subject of the report with regard to
24 the preparation of documents and research for the primary
purpose of influencing legislative action and to lobbying
for which the lobbyist and lobbyist associate has been or
expects to be reimbursed;

26 F. The total amount of nonpecuniary benefit money expended
28 directly to or on behalf of one or more officials of the
legislative branch, including members of the official's
30 immediate family, and the amount, if any, for which the
lobbyist and lobbyist associate has been or expects to be
32 reimbursed;

34 G. The name of an official in the legislative branch or a
member of that official's immediate family on whose behalf
36 an a nonpecuniary benefit expenditure or nonpecuniary
benefit expenditures totaling \$25 or more were made in any
38 one calendar month and the date, amount and purpose of the
nonpecuniary benefit expenditure or nonpecuniary benefit
40 expenditures-;

42 G-1. The date, a description of the event, a list of all
44 officials of the legislative branch or administrative agency
or members of an official's immediate family and the total
46 amount of nonpecuniary benefit expenditures for the event,
if the total amount of the nonpecuniary benefit expenditures
for officials and family members total \$250 or more;

48 H. A list of each legislative action by Legislative
50 Document or, if unknown, by Senate Paper or House Paper

2 number or, if unknown, by topic or nomination in connection
with which the lobbyist is engaged in lobbying;

4 I. A list specifically identifying each legislative action,
Legislative Document, Senate Paper, House Paper or
6 nomination for which the lobbyist was compensated or expects
to be compensated, or expended in excess of \$1,000 for
8 lobbying activities related to those actions and a statement
of the amounts compensated or expended for each; and

10 J. If the lobbyist or lobbyist associate is required to
12 make a specific list of items under paragraph I, a list of
all original sources of any money received from that
14 employer must be included. If the employer or person who
contributes to an employer is a corporation formed under
16 Titles 13 or 13-A, nonprofit corporation formed under Title
13-B or limited partnership under Title 31, the corporation,
18 nonprofit organization or limited partnership, not the
individual members or contributors, is listed as the
20 original source.

22 **Sec. 13. 3 MRSA §317, sub-§2,** as corrected by RR 1993, c. 2,
§1, is amended to read:

24 **2. Annual report.** Thirty days following the end of the
26 year in which any person lobbied pursuant to section 313, the
lobbyist and the lobbyist's employer shall file with the
28 commission a joint report that must contain the information
required in subsection 1, except that the report must summarize
30 all lobbying activities for the year and report in detail only
those legislative actions not previously reported, as required by
32 subsection 1, paragraphs H and I. The activity and compensation
of each lobbyist and lobbyist associate must be itemized
34 separately, but the report may be filed on a single form to be
prescribed by the commission.

36 The report must include a separate listing of legislative actions
38 for the calendar reported on pursuant to subsection 1, paragraphs
H and I. The reports required by subsection 1 must be signed by
40 the person designated by the lobbyist in section 316, subsection
1. The reports required by this subsection must be signed by
42 both the designated person and the employer.

44 If the date any report required by this section is due falls on a
day other than a regular business day, the report is due on the
46 first regular business day next following the due date.

48 In addition to the amounts identified in subsection 1 as
compensation received or expenditure made for the primary purpose
50 of lobbying, this annual report must include the total amount of

2 compensation received by the each lobbyist or the lobbying firm,
3 or expended by the employer, except compensation and each
4 lobbyist associate lobbying for the employer. Compensation
5 received or expended for purposes not related to lobbying need
6 not be reported.

7 **Sec. 14. 3 MRSA §317, sub-§4,** as amended by PL 1993, c. 691,
8 §21, is further amended to read:

9 **4. Monthly nonsession reports.** When the Legislature is not
10 in regular session, every registered lobbyist must either file:

11 A. With the lobbyist's last monthly report for that regular
12 session a statement that the lobbyist and any lobbyist
13 associate will not engage in lobbying activities when the
14 Legislature is not in session. The lobbyist is required to
15 file a monthly report for lobbying activity conducted during
16 a special session; or

17 B. If the lobbyist or lobbyist associate is engaged in
18 lobbying in any of those months, a monthly report in the
19 manner prescribed in subsection 1 even if compensation or
20 reimbursement for expenses has not been received for the
21 month.

22 If the lobbyist did and lobbyist associate do not expect to be
23 engaged in lobbying when the Legislature was is not in session,
24 the commission may waive the requirement for the months between
25 the end of the session and the renewal of lobbying.

26 **Sec. 14. 3 MRSA §§327 to 331** are enacted to read:

27 **§327. Representation of adverse interests**

28 Each lobbyist and lobbyist associate shall disclose fully to
29 each prospective employer any interest that the lobbyist or
30 lobbyist associate represents or expects to represent that may be
31 adverse to the interests of the prospective employer.

32 **§328. Preservation of documents**

33 All accounts, receipts, books, papers and other documents
34 necessary to substantiate reports required to be filed under this
35 chapter must be obtained and preserved by the employer and the
36 lobbyist for 2 years following the end of the year to which the
37 reports pertain.

38 **§329. Identification during hearing**

2 Prior to testifying at any hearing before a joint standing
3 committee of the Legislature, each lobbyist and lobbyist
4 associate shall identify each employer on whose behalf the
5 lobbyist's or lobbyist associate's testimony is to be offered.

6 **§330. Prohibited practices; violation**

8 A lobbyist or lobbyist associate or the employer of a
9 lobbyist or lobbyist associate may not furnish to any official in
10 the Legislature any pecuniary benefit except as otherwise
11 permitted by law.

12 A lobbyist or lobbyist associate who violates any provision
13 of this chapter for which a penalty has not been specified is
14 subject to a civil forfeiture of not more than \$500 for each
15 violation.

18 **§331. Rulemaking**

20 The commission shall adopt rules to ensure the effective
21 administration of this chapter. These rules must not be limited
22 to operational procedures. Rules adopted under this section are
23 major substantive rules pursuant to Title 5, chapter 375,
24 subchapter II-A.

26 **Sec. 15. PL 1993, c. 583, §3, as amended by PL 1995, c. 7, §2, is**
27 **further amended to read:**

28 **Sec. 3. Study by the Commission on Governmental Ethics and**
29 **Election Practices; jurisdiction.** The Commission on Governmental
30 Ethics and Election Practices shall review its current duties
31 prescribed by law and shall identify issues that the commission
32 has been asked to investigate and has not clearly had the
33 authority to investigate. The commission shall make
34 recommendations, along with any proposed legislation, to clarify
35 and, if necessary, to expand the commission's jurisdiction and
36 duties to the joint standing committee of the Legislature having
37 jurisdiction over legal affairs no later than March-30,--1996 May
38 1, 1997.

40 **Sec. 16. Retroactivity.** That section of this Act that amends
41 Public Law 1993, chapter 583, section 3 applies retroactively to
42 March 30, 1996.

44 **Sec. 17. Effective date.** This Act takes effect December 1, 1997.
46

SUMMARY

2

This bill makes the following changes to lobbying laws.

4

6 1. It changes the definition of "lobbyist" to include
8 persons who are contracted for the purpose of lobbying and
10 eliminates the exemption for such persons engaging in lobbying
12 less than 8 hours per month. It also changes the time limit for
14 employees not specifically employed as lobbyists or lobbyist
16 associates to exempt those who engage in lobbying less than 3
18 days per calendar month.

12

14 2. It exempts from the definition of "employer" for the
16 purposes of lobbying an officer, employee, member, shareholder or
18 partner of certain entities that hire a lobbyist.

16

18 3. It requires lobbyist associates and their activities to
20 be included in certain reports required to be filed by lobbyists.

20

22 4. It requires lobbyists and lobbyist associates to
24 register with the Commission on Governmental Ethics and Election
26 Practices within 5 days of the commencement of lobbying
28 activities, instead of the current 15 days.

24

26 5. It requires lobbyists and lobbyist associates to wear
28 name tags with the name of the person, the term "lobbyist" or
30 "lobbyist associate" and the employer of the person.

28

30 6. It requires each lobbyist and lobbyist associate to
32 fully disclose to each prospective employer any interest
34 represented by the lobbyist or lobbyist associate that is adverse
36 to the interests of the prospective employer.

34

36 7. It requires lobbyists and lobbyist associates to
38 identify their employer when testifying before a joint standing
40 committee of the Legislature.

38

40 8. It prohibits lobbyists, lobbyist associates and their
42 employers from giving any official of the Legislature any
44 pecuniary benefit and provides a definition of that term.

42

44 9. It provides a penalty for those violations for which a
46 penalty is not already specified.

44

46 10. It extends the reporting deadline for the Commission on
48 Governmental Ethics and Election Practices to make
50 recommendations regarding the jurisdiction of the commission from
March 30, 1996 to May 1, 1997 and makes that change retroactive
to March 30, 1996.

50

11. It provides an effective date of December 1, 1997.