

LOBBYIST DISCLOSURE ACT AMENDMENTS

2000 GENERAL SESSION

STATE OF UTAH

Sponsor: John E. Swallow

Ralph Becker

AN ACT RELATING TO LOBBYIST DISCLOSURE AND REGULATION; MODIFYING LICENSURE AND REPORTING REQUIREMENTS; CHANGING REGULATIONS GOVERNING PENALTIES; AND MAKING TECHNICAL CORRECTIONS.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

36-11-103, as last amended by Chapter 162, Laws of Utah 1992

36-11-106, as enacted by Chapter 280, Laws of Utah 1991

36-11-201, as last amended by Chapter 192, Laws of Utah 1995

36-11-401, as enacted by Chapter 280, Laws of Utah 1991

REPEALS:

36-11-104, as enacted by Chapter 280, Laws of Utah 1991

36-11-105, as enacted by Chapter 280, Laws of Utah 1991

36-11-202, as last amended by Chapter 56, Laws of Utah 1999

36-11-402, as enacted by Chapter 280, Laws of Utah 1991

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **36-11-103** is amended to read:

36-11-103. Licensing requirements.

(1) (a) Before engaging in any lobbying [~~activities~~], a lobbyist shall [~~register with~~] obtain a license from the lieutenant governor by [~~filing a written statement that provides:~~] completing the form required by this section.

(b) The lieutenant governor shall issue licenses to qualified lobbyists.

(c) The lieutenant governor shall prepare a Lobbyist License Application Form that includes:

[(a) his] (i) a place for the lobbyist's name and business address;

~~[(b)]~~ (ii) a place for the name and business address of each principal for ~~[which he]~~ whom the lobbyist works or is hired as an independent contractor;

~~[(c)]~~ (iii) a place for the name and address of the person who paid or will pay ~~[his]~~ the lobbyist's registration fee, if the fee is not paid by the ~~[registrant himself]~~ lobbyist;

~~[(d)]~~ (iv) a place for the lobbyist to disclose any elected or appointed position that ~~[he]~~ the lobbyist holds in state or local government, if any; ~~[and]~~

~~[(e)]~~ (v) a place for the lobbyist to disclose the types of expenditures for which the lobbyist will be reimbursed[-]; and

(vi) a certification to be signed by the lobbyist that certifies that the information provided in the form is true, accurate, and complete to the best of the lobbyist's knowledge and belief.

(2) Each ~~[person]~~ lobbyist who ~~[has registered in Subsection (1)]~~ obtains a license under this section shall update ~~[his registration when he]~~ the licensure information when the lobbyist accepts employment for lobbying by a new client.

~~[(3) A principal is not required to register under Subsection (1), but if he makes expenditures to benefit a public official without using a lobbyist as an agent to confer those benefits, he shall disclose those expenditures in accordance with Sections 36-11-201 and 36-11-202.]~~

(3) (a) Except as provided in Subsection (4), the lieutenant governor shall grant a lobbying license to an applicant who:

(i) files an application with the lieutenant governor that contains the information required by this section; and

(ii) pays a \$25 filing fee.

(b) A license entitles a person to serve as a lobbyist on behalf of one or more principals and expires on December 31 of each even-numbered year.

(4) (a) The lieutenant governor may disapprove an application for a lobbying license:

(i) if the applicant has been convicted of violating Section 76-8-103, 76-8-107, 76-8-108, or 76-8-303 within five years before the date of the lobbying license application;

(ii) if the applicant has been convicted of violating Section 76-8-104 or 76-8-304 within one year before the date of the lobbying license application;

(iii) for the term of any suspension imposed under Section 36-11-401; or

(iv) if, within one year before the date of the lobbying license application, the applicant has been found to have willingly and knowingly:

(A) violated Section 36-11-103, 36-11-201, 36-11-301, 36-11-302, 36-11-303, 36-11-304, 36-11-305, or 36-11-403; or

(B) filed a document required by this chapter that the lobbyist knew contained materially false information or omitted material information.

(b) An applicant may appeal the disapproval in accordance with the procedures established by the lieutenant governor under this chapter and Title 63, Chapter 46b, Administrative Procedures Act.

(5) The lieutenant governor shall deposit license fees in the General Fund.

(6) A principal need not obtain a license under this section, but if the principal makes expenditures to benefit a public official without using a lobbyist as an agent to confer those benefits, the principal shall disclose those expenditures as required by Sections 36-11-201.

[~~(4)~~] (7) Government officers need not [~~register under Subsection (1)~~] obtain a license under this section, but shall disclose any expenditures made to benefit public officials [~~in accordance with~~] as required by Sections 36-11-201 [~~and 36-11-202~~].

Section 2. Section **36-11-106** is amended to read:

36-11-106. Reports are public documents.

Any person may:

(1) without charge, inspect a license application or financial report filed with the lieutenant governor in accordance with this chapter; and

(2) make a copy of a report after paying for the actual costs of the copy.

Section 3. Section **36-11-201** is amended to read:

36-11-201. Lobbyist, principal, and government officer financial reporting requirements -- Prohibition for related person to make expenditures.

(1) (a) (i) Each lobbyist, principal, and government officer [~~who makes expenditures totaling \$50 or more to benefit public officials or members of their immediate families in any calendar quarter~~

~~of the last calendar year~~ shall file ~~[a]~~ an annual financial report with the lieutenant governor ~~[by]~~ on January 10 of each year or on the next succeeding business day if January 10 falls on a Saturday, Sunday, or legal holiday. The report shall be considered timely filed if postmarked on its due date.

~~[Any report required shall contain:]~~

(ii) The report shall disclose expenditures made to benefit public officials or members of their immediate families as provided in this section.

(iii) If the lobbyist made no expenditures since the last expenditure reported on the last report filed, the lobbyist shall file a financial report listing the amount of expenditures as "none."

(b) The January 10 report shall contain:

~~[(a)]~~ (i) the total amount of expenditures made to benefit public officials during the last calendar year;

~~[(b)-(i)]~~ (ii) (A) the total travel expenditures that the lobbyist, principal, or government officer made to benefit public officials and their immediate families during the last calendar year; and

~~[(ii)]~~ (B) a travel expenditure statement that:

~~[(A)]~~ (I) describes the destination of each trip and its purpose;

~~[(B)]~~ (II) identifies the total amount of expenditures made to benefit each public official and ~~his]~~ members of the public official's immediate family for each trip;

~~[(C)]~~ (III) names all individuals that took each trip;

~~[(D)]~~ (IV) provides the name and address of the organization that sponsored each trip; and

~~[(E)]~~ (V) identifies specific expenditures for food, lodging, gifts, and sidetrips;

~~[(e)]~~ (iii) for aggregate daily expenditures made to benefit public officials or members of their immediate families that are not reportable under Subsection (1)(b):

~~[(i)]~~ (A) when the amount does not exceed \$50 per person:

~~[(A)]~~ (I) the date of the expenditure;

~~[(B)]~~ (II) the purpose of the expenditure; and

~~[(C)]~~ (III) the total monetary worth of the benefit conferred on the public officials or members of their immediate families;

~~[(i)]~~ (B) when the amount exceeds \$50 per person:

~~[(A)]~~ (I) the date, location, and purpose of the event, activity, or expenditure;

~~[(B)]~~ (II) the name of the public official or member of ~~[his]~~ the public official's immediate family who attended the event or activity or received the benefit of the expenditure; and

~~[(C)]~~ (III) the total monetary worth of the benefit conferred on the public official or member of ~~[his]~~ the public official's immediate family;

~~[(D)]~~ (iv) a list of each public official ~~[that]~~ who was employed by the lobbyist, principal, or government officer or who performed work as an independent contractor for the lobbyist, principal, or government officer during the last year that details the nature of the employment or contract;

~~[(E)]~~ (v) each bill or resolution by number and short title on behalf of which the lobbyist, principal, or government officer made an expenditure to a public official for which a report is required by this section, if any;

~~[(F)]~~ (vi) a description of each executive action on behalf of which the lobbyist, principal, or government officer made an expenditure to a public official for which a report is required by this section, if any; and

~~[(G)]~~ (vii) the general purposes, interests, and nature of the organization or organizations that the lobbyist, principal, or government officer filing the report represents.

(2) A related person may not, while assisting a lobbyist, principal, or government officer in lobbying, make an expenditure that benefits a public official or member of ~~[his]~~ the public official's immediate family under circumstances which would otherwise fall within the disclosure requirements of this chapter if the expenditure was made by the lobbyist, principal, or government officer.

(3) (a) Each lobbyist, principal, and government officer who makes expenditures totaling \$50 or more to benefit public officials or members of their immediate families since the date of the last financial report filed shall file a financial report with the lieutenant governor on:

(i) the date ten days after the last day of each annual general session;

(ii) the date seven days before a regular general election; and

(iii) the date seven days after the end of a special session or veto override session.

(b) (i) If any date specified in this Subsection (3) falls on a Saturday, Sunday, or legal holiday, the report is due on the next business day or on the next succeeding business day, if the due date falls

on a Saturday, Sunday, or legal holiday.

(ii) The report shall be considered timely filed if it is postmarked on its due date.

(c) Each report shall contain a listing of all expenditures made since the last expenditure reported on the last report filed in the form specified in Subsection (1)(b).

(4) Each financial report filed by a lobbyist shall contain a certification that the information provided in the report is true, accurate, and complete to the lobbyist's best knowledge and belief.

(5) The lieutenant governor shall:

(a) develop preprinted suggested forms for all statements required by this section; and

(b) make copies of the forms available to each person who requests them.

Section 4. Section **36-11-401** is amended to read:

36-11-401. Penalties.

(1) Any person who willfully and knowingly violates Section 36-11-103, 36-11-201, ~~[36-11-202,]~~ 36-11-301, 36-11-302, ~~[or]~~ 36-11-303, 36-11-304, 36-11-305, or 36-11-403, is subject to ~~[any or all of]~~ the following penalties:

~~[(a) suspension of his lobbying license for a period of one year; and]~~

~~[(b)]~~ (a) an administrative penalty of ~~[not more than]~~ up to \$1,000 for each violation[-]; and

(b) for each subsequent violation of that same section within 24 months, either:

(i) an administrative penalty of up to \$5,000; or

(ii) suspension of the violator's lobbying license for up to one year, if the person is a lobbyist.

(2) Any person who willfully and knowingly fails to file a financial report required by this chapter, omits material information from a license application form or financial report, or files false information on a license application form or financial report, is subject to the following penalties:

(a) an administrative penalty of up to \$1,000 for each violation; or

(b) suspension of the violator's lobbying license for up to one year, if the person is a lobbyist.

(3) Any person who willfully and knowingly fails to file a financial report required by this chapter on the date that it is due shall, in addition to the penalties, if any, imposed under Subsection (1) or (2), pay a penalty of up to \$50 per day for each day that the report is late.

~~[(2) If]~~ (4) (a) When a lobbyist ~~[has been]~~ is convicted of violating Section 76-8-103,

~~[76-8-104,]~~ 76-8-107, 76-8-108, or 76-8-303, ~~[or 76-8-304 or has had a penalty imposed under Subsection (1) more than once,]~~ the lieutenant governor shall ~~[: (a) permanently revoke a]~~ suspend the lobbyist's license ~~[-or]~~ for up to five years from the date of the conviction.

(b) When a lobbyist is convicted of violating Section 76-8-104 or 76-8-304, the lieutenant governor shall suspend a lobbyist's license for ~~[a period of up to three years; and]~~ up to one year from the date of conviction.

~~[(c) impose a penalty of not less than \$1,000 nor more than \$25,000.]~~

~~[(3)]~~ (5) (a) Any person who willfully and knowingly violates Section 36-11-301, 36-11-302, or 36-11-303 is guilty of a class B misdemeanor.

(b) The lieutenant governor shall ~~[revoke]~~ suspend the lobbyist license of any person convicted under ~~[this section]~~ any of these sections for up to one year.

(c) The suspension shall be in addition to any administrative penalties imposed by the lieutenant governor under this section.

(d) Any person with evidence of a possible violation of this chapter may submit that evidence to the lieutenant governor for investigation and resolution.

(6) Nothing in this chapter creates a third-party cause of action or appeal rights.

Section 5. **Repealer.**

This act repeals:

Section **36-11-104, Certification to the truth of reports and registrations.**

Section **36-11-105, Application for a license -- Fee -- Expiration -- Standards for disapproving an application.**

Section **36-11-202, Filing of supplemental reports.**

Section **36-11-402, Reinstatement of a license.**