

2001 ASSEMBLY BILL 920

March 14, 2002 – Introduced by Representative BLACK. Referred to Committee on Campaigns and Elections.

1 **AN ACT** *to amend* 13.62 (3), 13.62 (10r), 13.62 (12), 13.621 (1) (a), 13.625 (1) (a)
2 and (d), 13.64 (3), 13.67 (1), 13.68 (1) (a) (intro.), 1., 3., 4., 5. and 6., 13.68 (1) (b),
3 13.68 (1) (bn), 13.68 (1) (c) (intro.) and 2., 13.68 (1) (e), 13.68 (2) (a), 13.68 (3),
4 13.68 (5) and 13.68 (6); and *to create* 13.62 (7) and 13.64 (1) (f) of the statutes;
5 **relating to:** registration and reporting by principals who employ lobbyists to
6 attempt to influence certain actions of state agencies.

Analysis by the Legislative Reference Bureau

Currently, every principal (person who employs a lobbyist) must register with the state ethics board and file semiannual reports of lobbying expenditures and certain other information concerning any attempts by the principal to influence state legislative action or rule making by state agencies, unless the principal is exempted from registration or reporting under a statutory exemption. Lobbyists must supply to their principals the information required for the principals to prepare their reports. Each principal must report, in addition to other information, the principal's reasonable estimate of the proportion of its lobbying time spent attempting to influence any particular legislative proposal, proposed administrative rule, budget bill subject or other topic that accounts for 10% or more of the principal's time during a reporting period.

This bill requires registration and reporting, in addition, by any principal, other than a state agency, who or which employs a lobbyist (person who attempts to

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influence state legislative action or rule making) to attempt to influence official action of a state agency with respect to a matter other than rule making, unless the principal is exempted from registration or reporting under a current statutory exemption. Under the bill, a person who or which does not attempt to influence state legislative action or rule making by state agencies is not subject to registration or reporting requirements. The bill also requires each principal who or which is subject to a reporting requirement under the bill to report the principal's reasonable estimate of the proportion of its time spent attempting to influence any official action of a state agency with respect to a matter other than rule making if that matter accounts for 10% or more of the principal's time during a reporting period.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 13.62 (3) of the statutes is amended to read:

2 13.62 (3) "Agency official" means a member, officer, employee, or consultant of
3 any agency who as part of such person's official responsibilities participates in any
4 administrative action or executive action in other than a solely clerical, secretarial,
5 or ministerial capacity.

6 **SECTION 2.** 13.62 (7) of the statutes is created to read:

7 13.62 (7) "Executive action" means the proposal, development, drafting,
8 consideration, modification, adoption, rejection, or review of any contract, lease,
9 purchase, grant, license, award, expenditure, or other official action by an agency,
10 but does not include administrative action.

11 **SECTION 3.** 13.62 (10r) of the statutes is amended to read:

12 13.62 (10r) "Lobbying expenditure" means an expenditure related to the
13 performance of lobbying, or, in the case of a principal who employs a lobbyist to
14 attempt to influence executive action, an expenditure related to attempting to
15 influence executive action, whether received in the form of an advance or subsequent
16 reimbursement. The term includes an expenditure for conducting research or for
17 providing or using information, statistics, studies, or analyses in communicating

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1 with an official that would not have been incurred but for lobbying or attempting to
2 influence executive action.

3 **SECTION 4.** 13.62 (12) of the statutes is amended to read:

4 13.62 (12) “Principal” means any person who employs a lobbyist to engage in
5 lobbying or attempting to influence executive action. If an association, corporation,
6 limited liability company, or partnership engages a lobbyist, an officer, employee,
7 member, shareholder, or partner of the association, corporation, limited liability
8 company, or partnership shall not be considered a principal.

9 **SECTION 5.** 13.621 (1) (a) of the statutes is amended to read:

10 13.621 (1) (a) Lobbying or attempting to influence executive action through
11 communications media or by public addresses to audiences made up principally of
12 persons other than legislators or agency officials.

13 **SECTION 6.** 13.625 (1) (a) and (d) of the statutes are amended to read:

14 13.625 (1) (a) Instigate legislative ~~or~~, administrative, or executive action for the
15 purpose of obtaining employment in support or opposition thereto.

16 (d) Contract to receive or receive compensation dependent in any manner upon
17 the success or failure of any legislative ~~or~~, administrative, or executive action.

18 **SECTION 7.** 13.64 (1) (f) of the statutes is created to read:

19 13.64 (1) (f) If the principal intends to attempt to influence executive action of
20 an agency, the name of each such agency and the general areas of executive action
21 that the principal is attempting to influence.

22 **SECTION 8.** 13.64 (3) of the statutes is amended to read:

23 13.64 (3) Each principal registered under this section shall, before the
24 principal or a lobbyist for the principal attempts to influence legislative ~~or~~,
25 administrative, or executive action in any general area or agency not previously filed

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1 with the board, provide written notice to the board of the general area or agency in
2 which the principal or a lobbyist for the principal will attempt to influence legislative
3 ~~or~~, administrative, or executive action and in relation to which a lobbyist is employed.

4 **SECTION 9.** 13.67 (1) of the statutes is amended to read:

5 13.67 **(1)** Except as authorized under s. 13.621, no person may engage in
6 lobbying or attempting to influence executive action as a lobbyist on behalf of a
7 principal and no principal may authorize a lobbyist to engage in lobbying or
8 attempting to influence executive action on its behalf unless the principal reports to
9 the board, in such manner as the board may prescribe, each legislative proposal,
10 budget bill subject, and proposed administrative rule number in connection with
11 which the principal has made or intends to make a lobbying communication or, if the
12 lobbying does not relate to a legislative proposal or proposed administrative rule that
13 has been numbered or a budget bill subject, each topic of a lobbying communication
14 made or intended to be made by the principal and each topic of a communication that
15 attempts to influence executive action. A principal shall describe any topic of a
16 lobbying communication or a communication that attempts to influence executive
17 action with reasonable specificity, sufficient to identify the subject matter of the
18 lobbying communication and whether the communication is an attempt to influence
19 legislative ~~or~~, administrative, or executive action, ~~or both~~. The principal shall file the
20 report no later than the end of the 15th day after the date on which the principal
21 makes a lobbying communication with respect to a legislative proposal, proposed
22 administrative rule, budget bill subject or other topic, or executive action not
23 previously reported by the principal under this section during the biennial period for
24 which the principal is registered. The report shall be made by a person who is
25 identified by the principal under s. 13.64 (1) (e).

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1 **SECTION 10.** 13.68 (1) (a) (intro.), 1., 3., 4., 5. and 6. of the statutes are amended
2 to read:

3 13.68 (1) (a) (intro.) The aggregate total amount of lobbying expenditures made
4 and obligations to make lobbying expenditures incurred for lobbying by the principal
5 and all lobbyists for the principal, excluding lobbying expenditures and obligations
6 for the principal's clerical employees, lobbying expenditures and obligations for any
7 employee of the principal who is not a lobbyist and who devotes not more than 10
8 hours to lobbying during a reporting period, and lobbying expenditures and
9 obligations specified in pars. (b), (d), and (e). With respect to expenditures and
10 obligations included in the amount reported under this paragraph:

11 1. Lobbying expenditures made and obligations to make lobbying expenditures
12 incurred for lobbying shall include compensation to lobbyists ~~for lobbying~~, whether
13 in cash or in-kind, and reimbursements to lobbyists and to the principal or officers
14 or employees of the principal ~~for lobbying or expenses~~.

15 3. A reasonable estimate of lobbying expenditures made and obligations to
16 make lobbying expenditures incurred for conducting, compiling, or preparing
17 research, information, statistics, studies, or analyses ~~used in lobbying~~ shall be
18 included in the aggregate total. Lobbying expenditures and obligations to make
19 lobbying expenditures shall not be reported under this subdivision if the use in
20 lobbying or attempting to influence executive action occurs more than 3 years after
21 the completion of the research or the compilation or preparation of the information,
22 statistics, studies, or analyses. If the research, information, statistics, studies, or
23 analyses are used by the principal both for lobbying or for attempting to influence
24 executive action and for other purposes ~~other than lobbying~~, the principal shall
25 allocate the lobbying expenditures and obligations among the purposes for which the

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1 research, information, statistics, studies, or analyses are used and include the
2 portion allocated to lobbying and attempting to influence executive action in the
3 aggregate total.

4 4. Lobbying expenditures made and obligations to make lobbying expenditures
5 incurred for providing or using research, information, statistics, studies, or analyses
6 in lobbying shall be included in the aggregate total.

7 5. Lobbying expenditures made and obligations to make lobbying expenditures
8 incurred for paid advertising and any other activities conducted for the purpose of
9 urging members of the general public to attempt to influence legislative or
10 administrative, or executive action shall be included in the aggregate total, if the
11 total amount of all such lobbying expenditures made and obligations incurred
12 exceeds \$500 during the reporting period.

13 6. If the total amount of lobbying expenditures and obligations to make
14 lobbying expenditures, included in the aggregate total under this paragraph, made
15 or incurred to any lobbyist for the principal exceeds \$200 during the reporting period,
16 the name and address of the lobbyist and the total amount of the lobbying
17 expenditures made or obligations incurred to the lobbyist during the reporting
18 period shall be listed.

19 **SECTION 11.** 13.68 (1) (b) of the statutes is amended to read:

20 13.68 (1) (b) If a lobbyist is an employee, officer, or director of a principal and
21 the lobbyist is paid a salary or given consideration other than reimbursement of
22 expenses, the aggregate total amount of lobbying expenditures made or obligations
23 to make lobbying expenditures incurred by the principal for office space, utilities,
24 supplies, and compensation of employees who are utilized in preparing for lobbying
25 communications. Any lobbying expenditures made or obligations to make lobbying

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1 expenditures incurred for office overhead costs which are included in the amount
2 reported under par. (a) 1. shall not be included in the amounts reported under this
3 paragraph.

4 **SECTION 12.** 13.68 (1) (bn) of the statutes is amended to read:

5 13.68 (1) (bn) For each legislative proposal, proposed administrative rule,
6 budget bill subject or other topic, or executive action that accounts for 10% or more
7 of the principal's time spent in lobbying during the reporting period, the principal's
8 reasonable estimate of the proportion of its time spent in lobbying associated or
9 attempting to influence executive action with respect to that legislative proposal,
10 proposed administrative rule, budget bill subject or other topic, or executive action.

11 **SECTION 13.** 13.68 (1) (c) (intro.) and 2. of the statutes are amended to read:

12 13.68 (1) (c) (intro.) A record disclosing the amount of time spent to influence
13 legislative or administrative action, or executive action in the case of a principal who
14 employs a lobbyist to attempt to influence executive action. The record shall be
15 supplied on a form provided by the board and shall include a daily itemization of the
16 time, except the time of a clerical employee, the time of an employee who is not a
17 lobbyist and who devotes not more than 10 hours to lobbying during a reporting
18 period, and the time of an unpaid volunteer, spent by the principal on:

19 2. Research, preparation, and any other activity which includes lobbying or
20 attempting to influence executive action.

21 **SECTION 14.** 13.68 (1) (e) of the statutes is amended to read:

22 13.68 (1) (e) The total lobbying expenditures made and obligations to make
23 lobbying expenditures incurred for personal travel and living expenses, except for
24 expenditures made or obligations incurred for the travel and living expenses of

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1 unpaid volunteers if the primary purpose of the travel is for reasons unrelated to
2 lobbying or attempting to influence executive action.

3 **SECTION 15.** 13.68 (2) (a) of the statutes is amended to read:

4 13.68 (2) (a) If the principal compensates or reimburses a lobbyist or employee
5 both for lobbying activities ~~or expenses~~ expenditures which are not exempt under s.
6 13.621 and for other activities or expenses, for the purposes of sub. (1) (a) 1. or 6., the
7 lobbyist or principal shall estimate and report the portion of the compensation and
8 reimbursements paid for nonexempt lobbying activities ~~or expenses~~ expenditures or,
9 if 85% or more of the total compensation and reimbursements paid to the lobbyist or
10 employee ~~relate to~~ are for lobbying ~~or expenses~~ expenditures which are not exempt
11 under s. 13.621, the lobbyist or principal may report the entire amount of the
12 compensation and reimbursements paid to the lobbyist or employee.

13 **SECTION 16.** 13.68 (3) of the statutes is amended to read:

14 13.68 (3) EXEMPT ACTIVITIES. Lobbying expenditures made and obligations to
15 make lobbying expenditures incurred for activities identified under s. 13.621 (1) (a)
16 to (f) and (3) are not required to be reported under sub. (1), regardless of whether the
17 principal or a lobbyist for the principal also engages in lobbying activities which are
18 not identified in s. 13.621 (1) (a) to (f) and (3) that are required to be reported under
19 sub. (1).

20 **SECTION 17.** 13.68 (5) of the statutes is amended to read:

21 13.68 (5) RECORDS. Each principal and each lobbyist engaged by a principal
22 shall obtain, organize, and preserve all accounts, bills, receipts, books, papers, and
23 other documents necessary to substantiate the expense statement, including an
24 account identifying the amount of time that a principal and each of its authorized
25 lobbyists spend each day on lobbying ~~each day~~ or attempting to influence executive

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1 action, for 3 years after the date of filing the expense statement. A principal may
2 permit its authorized lobbyist to maintain any of the records identified in this
3 subsection on its behalf.

4 **SECTION 18.** 13.68 (6) of the statutes is amended to read:

5 13.68 (6) SUSPENSION FOR FAILURE TO FILE A COMPLETE EXPENSE STATEMENT. If a
6 principal fails to timely file a complete expense statement under this section, the
7 board may suspend the privilege of any lobbyist to lobby or to attempt to influence
8 executive action on behalf of the principal. Upon failure of a principal to file the
9 required expense statement, the board shall mail written notices to the principal and
10 to any lobbyist for whom a written authorization has been filed under s. 13.65 to act
11 as a lobbyist for the principal informing them that unless the principal files the
12 delinquent statement within 10 business days after the date of mailing of the notices,
13 no lobbyist may lobby or attempt to influence executive action on behalf of the
14 principal. The privilege of any lobbyist to lobby or attempt to influence executive
15 action on behalf of the principal shall be restored immediately upon filing the
16 delinquent statement. The notices shall be sent by certified mail to the last-known
17 addresses of the principal and lobbyist. Any principal or lobbyist who is aggrieved
18 by a suspension of lobbying privileges or the privilege of attempting to influence
19 executive action under this subsection may request a hearing under s. 227.42
20 regarding the suspension.

21 **SECTION 19. Initial applicability.**

22 (1) This act first applies with respect to reports filed by principals under section
23 13.68 (1) of the statutes for the first reporting period beginning after the effective
24 date of this subsection.

25 (END)