2003 ASSEMBLY BILL 853

February 19, 2004 – 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), 13.621 (5), 13.625 (1) (a) and (d), 13.64 (1) (intro.), 13.64 (3), 13.67 (1), 13.68 (1) (a) 1., 3. and 5., 13.68 (1) (bn), 13.68 (1) (c) (intro.) and 2., 13.68 (1) (e), 13.68 (2) (a), 13.68 (3), 13.68 (5) and 13.68 (6); and **to create** 13.62 (7), 13.62 (11n) and 13.64 (1) (f) of the statutes; relating to: registration and reporting by principals who employ lobbyists to attempt to influence certain actions of state agencies.

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**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
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:

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

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

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

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

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

13.62 (10r) “Lobbying expenditure” means an expenditure related to the performance of lobbying, or, in the case of a principal who employs a lobbyist to attempt to influence executive action, an expenditure related to attempting to influence executive action, whether received in the form of an advance or subsequent reimbursement. The term includes an expenditure for conducting research or for providing or using information, statistics, studies, or analyses in communicating
with an official that would not have been incurred but for lobbying or attempting to influence executive action.

**SECTION 4.** 13.62 (11n) of the statutes is created to read:


**SECTION 5.** 13.62 (12) of the statutes is amended to read:

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

**SECTION 6.** 13.621 (1) (a) of the statutes is amended to read:

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

**SECTION 7.** 13.621 (5) of the statutes is amended to read:

13.621 (5) **Verified statements.** Any principal who or which anticipates making expenditures or incurring obligations debts in an aggregate amount not exceeding $500 in a calendar year for the purpose of engaging in lobbying activities which are is not exempt under this section may so indicate on a verified statement filed with the board. The statement shall disclose the name, address, and telephone number of the principal and a brief description of each cause or interest for which the principal employs a lobbyist. The statement shall also disclose the name and business address of any lobbyist who is employed by such principal to engage in lobbying activities which are is not exempt under this section. A statement filed under this subsection expires at midnight on December 31 of each year, or upon
Section 7

As Assembly Bill 853 revocation by the principal, whichever is earlier. Any principal and any lobbyist acting on behalf of a principal making such a statement is not subject to licensing under s. 13.63, registration under s. 13.64, or the reporting requirements under s. 13.68, if the statement is true. The statement may be revoked at any time by the principal and the principal and any lobbyist employed by the principal are then subject to such requirements as of the date of revocation. The statement shall be revoked no later than 10 days after the date the aggregate expenditures or obligations debts in the calendar year for the purpose of engaging in such lobbying activities exceed $500. The fee paid under s. 13.75 (3) for filing a statement under this subsection shall be credited toward payment of the fee under s. 13.75 (2) if the fee under s. 13.75 (2) is paid within the same year.

Section 8.

13.625 (1) (a) and (d) of the statutes are amended to read:

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

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

Section 9.

13.64 (1) (intro.) of the statutes is amended to read:

13.64 (1) (intro.) Every principal who makes expenditures or incurs obligations debts in an aggregate amount exceeding $500 in a calendar year for the purpose of engaging in lobbying which is not exempt under s. 13.621 shall, within 10 days after exceeding $500, cause to be filed with the board a registration statement specifying the principal's name, business address, the general areas of legislative and administrative action which the principal is attempting to influence, the names of any agencies in which the principal seeks to influence administrative action, and information sufficient to identify the nature and interest of the principal. The
statement shall be signed, under the penalty for making false statements under s. 13.69 (6m), by an individual identified under par. (e) who is authorized to represent the principal. The statement shall include:

**SECTION 10.** 13.64 (1) (f) of the statutes is created to read:

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

**SECTION 11.** 13.64 (3) of the statutes is amended to read:

13.64 (3) Each principal registered under this section shall, before the principal or a lobbyist for the principal attempts to influence legislative or administrative, or executive action in any general area or agency not previously filed with the board, provide written notice to the board of the general area or agency in which the principal or a lobbyist for the principal will attempt to influence legislative or administrative, or executive action and in relation to which a lobbyist is employed.

**SECTION 12.** 13.67 (1) of the statutes is amended to read:

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

SECTION 13. 13.68 (1) (a) 1., 3. and 5. of the statutes are amended to read:

13.68 (1) (a) 1. Lobbying expenditures made and obligations incurred for
lobbying shall include compensation to lobbyists for lobbying, whether in cash or
in-kind, and reimbursements to lobbyists and to the principal or officers or
employees of the principal for lobbying or expenses.

3. A reasonable estimate of lobbying expenditures made and obligations
incurred for conducting, compiling, or preparing research, information, statistics,

studies, or analyses used in lobbying shall be included in the aggregate total.

Lobbying expenditures and obligations shall not be reported under this subdivision
if the use in lobbying or attempting to influence executive action occurs more than
3 years after the completion of the research or the compilation or preparation of the
information, statistics, studies, or analyses. If the research, information, statistics,
studies, or analyses are used by the principal both for lobbying or for attempting to
influence executive action and for other purposes other than lobbying, the principal
shall allocate the lobbying expenditures and obligations among the purposes for which the research, information, statistics, studies, or analyses are used and include the portion allocated to lobbying and attempting to influence executive action in the aggregate total.

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

SECTION 14. 13.68 (1) (bn) of the statutes is amended to read:

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

SECTION 15. 13.68 (1) (c) (intro.) and 2. of the statutes are amended to read:

13.68 (1) (c) (intro.) A record disclosing the amount of time spent to influence legislative or administrative action, or executive action in the case of a principal who employs a lobbyist to attempt to influence executive action. The record shall be supplied on a form provided by the board and shall include a daily itemization of the time, except the time of a clerical employee, the time of an employee who is not a lobbyist and who devotes not more than 10 hours to lobbying during a reporting period, and the time of an unpaid volunteer, spent by the principal on:
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2. Research, preparation, and any other activity which includes lobbying or attempting to influence executive action.

SECTION 16. 13.68 (1) (e) of the statutes is amended to read:

13.68 (1) (e) The total lobbying expenditures made and obligations incurred for personal travel and living expenses, except for expenditures made or obligations incurred for the travel and living expenses of unpaid volunteers if the primary purpose of the travel is for reasons unrelated to lobbying or attempting to influence executive action.

SECTION 17. 13.68 (2) (a) of the statutes is amended to read:

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

SECTION 18. 13.68 (3) of the statutes is amended to read:

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

SECTION 19. 13.68 (5) of the statutes is amended to read:
13.68 (5) RECORDS. Each principal and each lobbyist engaged by a principal shall obtain, organize and preserve all accounts, bills, receipts, books, papers, and other documents necessary to substantiate the expense statement, including an account identifying the amount of time that a principal and each of its authorized lobbyists spend each day on lobbying each day or attempting to influence executive action, for 3 years after the date of filing the expense statement. A principal may permit its authorized lobbyist to maintain any of the records identified in this subsection on its behalf.

SECTION 20. 13.68 (6) of the statutes is amended to read:

13.68 (6) SUSPENSION FOR FAILURE TO FILE A COMPLETE EXPENSE STATEMENT. If a principal fails to timely file a complete expense statement under this section, the board may suspend the privilege of any lobbyist to lobby or to attempt to influence executive action on behalf of the principal. Upon failure of a principal to file the required expense statement, the board shall mail written notices to the principal and to any lobbyist for whom a written authorization has been filed under s. 13.65 to act as a lobbyist for the principal informing them that unless the principal files the delinquent statement within 10 business days after the date of mailing of the notices, no lobbyist may lobby or attempt to influence executive action on behalf of the principal. The privilege of any lobbyist to lobby or attempt to influence executive action on behalf of the principal shall be restored immediately upon filing the delinquent statement. The notices shall be sent by certified mail to the last-known addresses of the principal and lobbyist. Any principal or lobbyist who is aggrieved by a suspension of lobbying privileges or the privilege of attempting to influence executive action under this subsection may request a hearing under s. 227.42 regarding the suspension.
SECTION 21. Initial applicability.

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

(END)