

2007 ASSEMBLY BILL 928

March 11, 2008 – Introduced by Representative BLACK. Referred to Committee on Judiciary and Ethics.

1 **AN ACT to amend** 13.62 (3), 13.62 (10r), 13.62 (12), 13.621 (1) (a), 13.621 (5),
2 13.625 (1) (a) and (d), 13.64 (1) (intro.), 13.64 (3), 13.67 (1), 13.68 (1) (a) 1., 3.
3 and 5., 13.68 (1) (bn), 13.68 (1) (c) (intro.) and 2., 13.68 (1) (e), 13.68 (2) (a), 13.68
4 (3), 13.68 (5) and 13.68 (6); and **to create** 13.62 (7), 13.62 (11n) and 13.64 (1)
5 (f) of the statutes; **relating to:** registration and reporting by principals who
6 employ lobbyists to attempt to influence certain actions of state agencies.

Analysis by the Legislative Reference Bureau

Currently, every principal (a 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 by statute. (A lobbyist is a person who attempts to influence state legislative action or rule making.) 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 percent or more of the principal's time during a reporting period.

This bill requires any principal, other than a state agency, who employs a lobbyist to attempt to influence official action of a state agency with respect to a

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matter other than rule making to register and report, unless the principal is exempted from registration or reporting by statute. Under the bill, a person who does not attempt to influence state legislative action or rule making by state agencies is exempt from registration or reporting requirements. The bill requires each principal who 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 percent 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 (11n) of the statutes is created to read:

4 13.62 (11n) “Obligation” means an obligation to make a lobbying expenditure.

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

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

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

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

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

16 13.621 (5) VERIFIED STATEMENTS. Any principal who or which anticipates
17 making expenditures or incurring obligations debts in an aggregate amount not
18 exceeding \$500 in a calendar year for the purpose of engaging in lobbying activities
19 which are is not exempt under this section may so indicate on a verified statement
20 filed with the board. The statement shall disclose the name, address, and telephone
21 number of the principal and a brief description of each cause or interest for which the
22 principal employs a lobbyist. The statement shall also disclose the name and
23 business address of any lobbyist who is employed by such principal to engage in
24 lobbying activities which are is not exempt under this section. A statement filed
25 under this subsection expires at midnight on December 31 of each year, or upon

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1 revocation by the principal, whichever is earlier. Any principal and any lobbyist
2 acting on behalf of a principal making such a statement is not subject to licensing
3 under s. 13.63, registration under s. 13.64, or the reporting requirements under s.
4 13.68, if the statement is true. The statement may be revoked at any time by the
5 principal, and the principal and any lobbyist employed by the principal are then
6 subject to such requirements as of the date of revocation. The statement shall be
7 revoked no later than 10 days after the date the aggregate expenditures or
8 ~~obligations~~ debts in the calendar year for the purpose of engaging in such lobbying
9 activities exceed \$500. The fee paid under s. 13.75 (3) for filing a statement under
10 this subsection shall be credited toward payment of the fee under s. 13.75 (2) if the
11 fee under s. 13.75 (2) is paid within the same year.

12 **SECTION 8.** 13.625 (1) (a) and (d) of the statutes are amended to read:

13 13.625 (1) (a) Instigate legislative ~~or~~, administrative, or executive action for the
14 purpose of obtaining employment in support or opposition thereto.

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

17 **SECTION 9.** 13.64 (1) (intro.) of the statutes is amended to read:

18 13.64 (1) (intro.) Every principal who makes expenditures or incurs ~~obligations~~
19 debts in an aggregate amount exceeding \$500 in a calendar year for the purpose of
20 engaging in lobbying which is not exempt under s. 13.621 shall, within 10 days after
21 exceeding \$500, cause to be filed with the board a registration statement specifying
22 the principal's name, business address, the general areas of legislative and
23 administrative action which the principal is attempting to influence, the names of
24 any agencies in which the principal seeks to influence administrative action, and
25 information sufficient to identify the nature and interest of the principal. The

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1 statement shall be signed, under the penalty for making false statements under s.
2 13.69 (6m), by an individual identified under par. (e) who is authorized to represent
3 the principal. The statement shall include:

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

5 13.64 (1) (f) If the principal intends to attempt to influence executive action of
6 an agency, the name of each such agency and the general areas of executive action
7 that the principal is attempting to influence.

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

9 13.64 (3) Each principal registered under this section shall, before the
10 principal or a lobbyist for the principal attempts to influence legislative or
11 administrative, or executive action in any general area or agency not previously filed
12 with the board, provide written notice to the board of the general area or agency in
13 which the principal or a lobbyist for the principal will attempt to influence legislative
14 or, administrative, or executive action and in relation to which a lobbyist is employed.

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

16 13.67 (1) Except as authorized under s. 13.621, no person may engage in
17 lobbying or attempting to influence executive action as a lobbyist on behalf of a
18 principal, and no principal may authorize a lobbyist to engage in lobbying or
19 attempting to influence executive action on its behalf unless the principal reports to
20 the board, in such manner as the board may prescribe, each legislative proposal,
21 budget bill subject, and proposed administrative rule number in connection with
22 which the principal has made or intends to make a lobbying communication or, if the
23 lobbying does not relate to a legislative proposal or proposed administrative rule that
24 has been numbered or a budget bill subject, each topic of a lobbying communication
25 made or intended to be made by the principal and each topic of a communication that

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1 attempts to influence executive action. A principal shall describe any topic of a
2 lobbying communication or a communication that attempts to influence executive
3 action with reasonable specificity, sufficient to identify the subject matter of the
4 lobbying communication and whether the communication is an attempt to influence
5 legislative ~~or~~, administrative, or executive action, ~~or both~~. The principal shall file the
6 report no later than the end of the 15th day after the date on which the principal
7 makes a lobbying communication with respect to a legislative proposal, proposed
8 administrative rule, budget bill subject, or other topic, or executive action not
9 previously reported by the principal under this section during the biennial period for
10 which the principal is registered. The report shall be made by a person who is
11 identified by the principal under s. 13.64 (1) (e).

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

13 13.68 (1) (a) 1. Lobbying expenditures made and obligations incurred for
14 lobbying shall include compensation to lobbyists ~~for lobbying~~, whether in cash or
15 in-kind, and reimbursements to lobbyists and to the principal or officers or
16 employees of the principal ~~for lobbying or expenses~~.

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

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1 shall allocate the lobbying expenditures and obligations among the purposes for
2 which the research, information, statistics, studies, or analyses are used and include
3 the portion allocated to lobbying and attempting to influence executive action in the
4 aggregate total.

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

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

12 13.68 (1) (bn) For each legislative proposal, proposed administrative rule,
13 budget bill subject, or other topic, or executive action that accounts for 10% or more
14 of the principal's time spent in lobbying during the reporting period, the principal's
15 reasonable estimate of the proportion of its time spent in lobbying associated or
16 attempting to influence executive action with respect to that legislative proposal,
17 proposed administrative rule, budget bill subject, or other topic, or executive action.

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

19 13.68 (1) (c) (intro.) A record disclosing the amount of time spent to influence
20 legislative or administrative action, or executive action in the case of a principal who
21 employs a lobbyist to attempt to influence executive action. The record shall be
22 supplied on a form provided by the board and shall include a daily itemization of the
23 time, except the time of a clerical employee, the time of an employee who is not a
24 lobbyist and who devotes not more than 10 hours to lobbying during a reporting
25 period, and the time of an unpaid volunteer, spent by the principal on:

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

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

4 13.68 (1) (e) The total lobbying expenditures made and obligations incurred for
5 personal travel and living expenses, except for expenditures made or obligations
6 incurred for the travel and living expenses of unpaid volunteers if the primary
7 purpose of the travel is for reasons unrelated to lobbying or attempting to influence
8 executive action.

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

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

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

20 13.68 (3) EXEMPT ACTIVITIES. Lobbying expenditures made and obligations
21 incurred for activities identified under s. 13.621 (1) (a) to (f) and (3) are not required
22 to be reported under sub. (1), regardless of whether the principal or a lobbyist for the
23 principal also engages in lobbying activities ~~which are not identified in s. 13.621 (1)~~
24 ~~(a) to (f) and (3)~~ that are required to be reported under sub. (1).

25 **SECTION 19.** 13.68 (5) of the statutes is amended to read:

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1 13.68 (5) RECORDS. Each principal and each lobbyist engaged by a principal
2 shall obtain, organize, and preserve all accounts, bills, receipts, books, papers, and
3 other documents necessary to substantiate the expense statement, including an
4 account identifying the amount of time that a principal and each of its authorized
5 lobbyists spend each day on lobbying each day or attempting to influence executive
6 action, for 3 years after the date of filing the expense statement. A principal may
7 permit its authorized lobbyist to maintain any of the records identified in this
8 subsection on its behalf.

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

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

