

Government Relations Update

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Senate and House Pass Comprehensive Federal Lobbying and Gift Reform

On Thursday, August 2, 2007, the Senate passed S.1, the “Honest Leadership and Open Government Act of 2007.” Having earlier been passed by the House of Representatives, the measure now goes to the President for his consideration and anticipated approval.

The legislation contains significant changes to, among other laws, the Lobbying Disclosure Act of 1995 (LDA), as well as modifications to Senate and House gift rules.

Below is a summary of the most significant changes that will take effect when the President signs the bill. Also outlined are the changes to House and Senate rules that either were made by the House of Representatives earlier this year or will go into effect once the bill becomes law.

LDA Registration & Reporting

The modifications to the LDA apply to individuals and entities required to register under the LDA and in-house lobbyists listed by registrants. Registrants include both individual lobbyists and entities that employ in-house lobbyists.

The legislation:

- Changes the timing of filing lobbying disclosure reports from semiannual to quarterly;
- Adjusts threshold amounts that trigger registration, reports and

disclosure to reflect new quarterly reporting periods;

- Requires electronic filing of all reports, which will be included in a public database that is linked to Federal Election Commission (FEC) data;
- Increases civil penalties for certain violations (including failure to comply with lobbying disclosure requirements) from \$50,000 to \$200,000 per violation and adds criminal penalties of up to 5 years in prison.

The bill also changes the kind and amount of detail that must be reported and requires semiannual disclosure of additional information:

- Requires new disclosure of whether a client is a State or local government or a department, agency, special purpose district, or other instrumentality controlled by one or more State or local governments;
- Registrants must disclose the name and position of any lobbyist who served in a covered executive or legislative branch capacity in the 20 years (increased from 2 years under existing law) prior to the person’s engagement as a lobbyist on behalf of the client;
- Requires identification of the organizational participants who

contribute \$5,000 or more a quarter to a coalition or an association that employs or retains a person to lobby on its behalf.

Semiannual Reporting:

- On a semiannual basis, registrants would be required to disclose all federal PACs established by the registrant and each federal candidate, officeholder, leadership PAC, or political party committee to which the registrant or its PAC made contributions of \$200 or more;
- Semiannual reports must include detailed disclosure regarding other contributions to entities or events in which a Member of Congress may have an interest including, but not limited to, events in honor of a covered legislative or executive branch official, an entity named for a covered official, or an entity established, financed, maintained or controlled by a covered legislative or executive branch official;
- LDA registrants would be required to provide semiannual certification that the registrant and its lobbyists are both familiar with and have not provided, requested, or directed a gift (including travel) to a Member or staff in violation of House and Senate gift rules.

Other important changes:

- Federal candidate committees, leadership PACS, and political party committees would be required to disclose bundled contributions from a registered lobbyist, lobbyist employer or a PAC established and controlled by either if the committee received two or more contributions that were bundled totaling more than \$15,000 in a six-month period;
- The bill would require full disclosure of earmarks;
 - Existing House rules regarding disclosure and timing of earmarks for procedural purposes remain as passed earlier this year (similar to those incorporated by the Senate in S.1).
 - S.1 outlines new Senate rules that require all earmarks be made available for public review before they are voted on and Senators would have to certify that neither they nor their family will monetarily benefit from the earmark.
- The bill includes changes in House and Senate rules that require disclosure by Members and staff of employment negotiations;
- House and Senate rules would be changed to prohibit staff from contacting the spouse of the Member for whom the staffer works if the spouse is a registered lobbyist. The Senate rule includes immediate family members within the prohibition and further bans staff from contacting **any** senator's lobbyist spouse. There is an exception for spouses who were registered lobbyists at least one year prior to the Member's most recent election or one year prior to marriage;
- Establishes new restrictions and penalties on attempts by a Member to use his or her official position to influence the employment decisions of private entities;
- The lobbying ban on former House members would remain one year, but the Senate would extend the ban to two years. Senior Senate staff would be banned from lobbying any Member in the Senate for one year;
- The measure would revoke congressional pensions to Members convicted of certain felonies committed after the date of enactment.

Gifts & Travel

- Lobbyists and those who employ them would become liable for providing gifts (including travel) in violation of the Senate and House gift rules;
- The bill would prohibit registered lobbyists and their employers from providing (or a Member from accepting) any gift to a Member of Congress or their staff regardless of the value;
 - All exceptions to the gift rule that were previously available continue to apply however (i.e. widely attended events, food or refreshments of nominal value, items of nominal value, gifts based on personal friendship).
 - The gift ban would not apply to acceptance by a Member or staff of free attendance at a charitable event.
 - The bill adds an exemption to the gift rule for free attendance of Members and staff at “bona fide constituent events” in the Senator's home state. Certain thresholds must be met to qualify under this exemption.
- The bill bans a Member from participating in an event honoring that Member at a national party convention if the event is paid for by a lobbyist or lobbyist's employer;
- Lobbyists are prohibited from accompanying a House Member on, arranging or otherwise organizing a fact-finding trip;

- The Senate follows the House rule except the Senate would allow a lobbyist's client to pay for expenses related to a fact-finding trip only under the following two circumstances:
 - The trip is provided for attendance or participation at a 1 day event, excluding travel time and overnight stay and;
 - The reimbursement is made in connection with official duties.
- Pre-approval, public disclosure and certification of all travel is required under rule changes in both the House and Senate;
- Senators would be required to pay charter rates for travel on private aircraft and disclose additional information about each flight. House members are barred from accepting trips on private planes;
- Tickets to sporting or entertainment events will be valued at the face value or if there is no face value, at the highest face value of a ticket to the event.

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