
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 803 Session of
2021

INTRODUCED BY BAKER, CORMAN, MENSCH, PHILLIPS-HILL, TOMLINSON,
AUMENT, COSTA, DiSANTO, FONTANA, LAUGHLIN, MARTIN, MASTRIANO,
SCHWANK, STEFANO AND L. WILLIAMS, OCTOBER 13, 2021

REFERRED TO STATE GOVERNMENT, OCTOBER 13, 2021

AN ACT

1 Amending Title 65 (Public Officers) of the Pennsylvania
2 Consolidated Statutes, in lobbying disclosure, further
3 providing for definitions, for registration, for reporting,
4 for exemption from registration and reporting, for prohibited
5 activities, for administration and for penalties; and making
6 editorial changes.

7 The General Assembly of the Commonwealth of Pennsylvania
8 hereby enacts as follows:

9 Section 1. Section 13A03 of Title 65 of the Pennsylvania
10 Consolidated Statutes is amended by adding definitions to read:
11 § 13A03. Definitions.

12 The following words and phrases when used in this chapter
13 shall have the meanings given to them in this section unless the
14 context clearly indicates otherwise:

15 * * *

16 "Affiliate." Any of the following:

17 (1) An entity or person that directly or indirectly
18 controls, is controlled by, or is under common control with,
19 another entity or person.

1 (2) An officer, director or manager of an entity.

2 (3) An entity or person directly or indirectly owning,
3 controlling or holding with power to vote 10% or more of the
4 outstanding voting securities of another entity or person.

5 (4) An entity or person 10% or more of whose outstanding
6 voting securities are directly or indirectly owned,
7 controlled or held by another entity or person with power to
8 vote such securities.

9 (5) A member of the same household, as well as an
10 immediate family member, of any person described in paragraph
11 (1), (2), (3) or (4) of this definition.

12 * * *

13 "Control." As used in the definition of "affiliate," the
14 term means the possession, directly or indirectly, of the power
15 to direct or cause the direction of the management and policies
16 of an entity or person, whether through ownership of voting
17 securities, by contract or otherwise.

18 * * *

19 "Political consultant." An entity or person providing
20 political consulting services.

21 "Political consulting." The provision, for compensation, to
22 any state or county public official, candidate or nominee, as
23 those terms are defined under section 1102 (relating to
24 definitions) for an elected State or county office of advice,
25 services or assistance in securing such public office,
26 including, but not limited to, campaign management, fundraising
27 activities, voter outreach, public relations or media service,
28 but shall exclude bona fide legal work directly related to
29 litigation or legal advice with regard to securing a place on
30 the ballot, the petitioning process, the conduct of an election

1 or which involves election laws.

2 * * *

3 Section 2. Section 13A04(a), (d)(1) and (e)(1), (2) and (4)
4 of Title 65 are amended, subsection (b)(1) and (2) are amended
5 by adding subparagraphs, subsection (c) is amended by adding a
6 paragraph and the section is amended by adding a subsection to
7 read:

8 § 13A04. Registration.

9 (a) General rule.--Unless excluded under section 13A06
10 (relating to exemption from registration and reporting), a
11 lobbyist, lobbying firm [~~or a~~], principal or political
12 consultant must register with the department electronically
13 using the computerized filing system developed by the department
14 that is consistent with the purposes of this chapter within ten
15 days of acting in any capacity as a lobbyist, lobbying firm
16 [~~or~~], principal or political consultant. Registration shall be
17 biennial [~~and shall begin January 1, 2007~~].

18 (b) Principals and lobbying firms.--

19 (1) A principal or lobbying firm required to register
20 under subsection (a) shall file a single registration
21 statement setting forth the following information with the
22 department:

23 * * *

24 (x) Name of any affiliates.

25 (2) A lobbying firm shall include in its statement under
26 paragraph (1) the following information for each principal it
27 represents:

28 * * *

29 (v) Name of any affiliates.

30 * * *

1 (c) Lobbyist.--A lobbyist who is required to register under
2 subsection (a) shall file a single registration statement
3 setting forth the following information with the department:

4 * * *

5 (10) Name of any affiliates.

6 (c.1) Political consultants.--A political consultant who is
7 required to register under subsection (a) shall file a single
8 registration statement providing the following information to
9 the department:

10 (1) Name.

11 (2) Permanent business address.

12 (3) Daytime telephone number.

13 (4) E-mail address, if available.

14 (5) Name of the political candidate or candidates for
15 whom the consultant will be providing services or assistance
16 or for whom the political consultant has provided services or
17 assistance in the past 12 months.

18 (6) Each office for which a political candidate
19 identified in paragraph (5) is seeking or sought election.

20 (7) Name of any affiliates.

21 (d) Amendments.--

22 (1) If there is a change of information required for the
23 registration statement under subsection (b)(1) or (2) [or],
24 (c) or (c.1), an amended registration statement shall be
25 filed with the department electronically using the
26 computerized filing system developed by the department that
27 is consistent with the purpose of this chapter within 14 days
28 after the change occurs.

29 * * *

30 (e) Termination.--

1 (1) A lobbyist, lobbying firm [or], principal or
2 political consultant may terminate registration by filing
3 notice of termination with the department electronically
4 using the computerized filing system developed by the
5 department that is consistent with the purpose of this
6 chapter.

7 (2) After a review of the notice of termination, but no
8 later than 15 days after receipt of the notice, the
9 department shall issue to the lobbyist, lobbying firm [or],
10 principal or political consultant a letter stating that the
11 registrant has terminated registration. The filing of notice
12 shall not affect the commission's authority to conduct
13 investigations and hearings under section 13A08(g) (relating
14 to administration).

15 * * *

16 (4) Nothing in this subsection shall be construed to
17 exempt a lobbyist, lobbying firm [or], principal or political
18 consultant from any of the requirements in section 13A05
19 (relating to expense reporting).

20 Section 3. The heading of section 13A05 of Title 65 is
21 amended to read:

22 § 13A05. [Reporting] Expense reporting.

23 Section 4. Section 13A06 heading, introductory paragraph,
24 (1), (3), (4), (5), (11) and (12) of Title 65 are amended to
25 read:

26 § 13A06. Exemption from registration and expense reporting.

27 The following persons and activities shall be exempt from
28 registration under section 13A04 (relating to registration) and
29 reporting under section 13A05 (relating to expense reporting):

30 (1) An individual who limits lobbying or political

1 consulting to preparing testimony and testifying before a
2 committee of the General Assembly or participating in an
3 administrative proceeding of an agency.

4 * * *

5 (3) An individual who does not receive economic
6 consideration for lobbying or political consulting.

7 (4) An individual whose economic consideration for
8 lobbying or political consulting, from all principals and
9 from all State or county public officials, candidates or
10 nominees whom the individual represented, does not exceed
11 \$2,500 in the aggregate during any reporting period for a
12 lobbyist or during any calendar year for a political
13 consultant.

14 (5) An individual who engages in lobbying or political
15 consulting on behalf of the individual's employer if the
16 lobbying or political consulting represents less than 20
17 hours during any reporting period.

18 * * *

19 (11) An individual representing a bona fide church or
20 bona fide religious body of which the individual is a member
21 where the lobbying or political consulting is solely for the
22 purpose of protecting the constitutional right to the free
23 exercise of religion.

24 (12) An individual who is not a registered lobbyist or a
25 registered political consultant and who serves on an advisory
26 board, working group or task force at the request of an
27 agency or the General Assembly.

28 * * *

29 Section 5. Section 13A07(c), (d)(1), (2), (3), (4), (5), (6)
30 introductory paragraph and (ii), (7) and (8) and (f)(1)(i), (vi)

1 and (x) of Title 65 are amended and subsection (f) (1) is amended
2 by adding subparagraphs to read:

3 § 13A07. Prohibited activities.

4 * * *

5 (c) Falsification.--A lobbyist, lobbying firm [or],
6 principal or political consultant may not, for the purpose of
7 influencing legislative action or administrative action,
8 transmit, utter or publish to a State official or employee a
9 communication, knowing that the communication or a signature on
10 the communication is false, forged, counterfeit or fictitious.

11 (d) Conflicts of interest.--

12 * * *

13 (1) Except as permitted by paragraph (2), a registrant
14 may not lobby nor provide political consulting services on
15 behalf of a principal or a State or county public official,
16 candidate or nominee on any subject matter in which the
17 principal's or State or county public official's, candidate's
18 or nominee's interests are directly adverse to the interests
19 of another principal or State or county public official,
20 candidate or nominee that is either currently represented by
21 the lobbyist or political consultant or was previously
22 represented by the lobbyist or political consultant during
23 the current session of the General Assembly or the lobbyist's
24 own interests.

25 (2) A lobbyist or political consultant may represent a
26 principal or a State or county public official, candidate or
27 nominee in circumstances described in paragraph (1) if:

28 (i) the lobbyist or political consultant reasonably
29 believes that the lobbyist or political consultant will
30 be able to provide competent and diligent representation

1 or services to each affected principal or State or county
2 public official, candidate or nominee;

3 (ii) the lobbyist or political consultant provides
4 written notice to each affected principal or State or
5 county public official, candidate or nominee upon
6 becoming aware of the conflict; and

7 (iii) each affected principal or State or county
8 public official, candidate or nominee provides informed
9 consent waiving the conflict of interest.

10 (3) If a lobbyist or political consultant represents a
11 principal in violation of this section or if multiple
12 representation properly accepted becomes improper under this
13 section and the conflict is not waived, the lobbyist or
14 political consultant shall promptly withdraw from one or more
15 representations or cease providing lobbying and political
16 consulting services to the extent necessary for remaining
17 representation to not be in violation of this section.

18 (4) If a lobbyist or political consultant is prohibited
19 by this section from engaging in particular conduct, an
20 [employer] affiliate of the lobbyist [or a partner or other
21 person associated with the lobbyist] or political consultant
22 may not engage in the particular conduct.

23 (5) A principal [or lobbyist], lobbyist or political
24 consultant required to report under section 13A05 (relating
25 to expense reporting) shall include in the report a statement
26 affirming that to the best of the [principal's or lobbyist's
27 knowledge the principal or lobbyist] principal's, lobbyist's
28 or political consultant's knowledge, the principal, lobbyist
29 or political consultant has complied with this section.

30 (6) Except as provided in paragraph (8), and subject to

1 13A09(f) (relating to penalties), the commission may receive
2 complaints regarding violations of this subsection. If the
3 commission determines a violation of this subsection has
4 occurred, the commission, after investigation, notice and
5 hearing:

6 * * *

7 (ii) may prohibit a lobbyist from lobbying or a
8 political consultant from providing political consulting
9 services for economic consideration for up to five years.

10 (7) A lobbyist [and], principal and political consultant
11 shall maintain the records relating to the conflict of
12 interest set forth in paragraph (2) for a four-year period
13 beginning on the date the conflict is discovered and, in the
14 case of an investigation conducted under paragraph (6),
15 provide copies of the records to the commission upon request.

16 (8) Complaints regarding violations of this subsection
17 involving a lobbyist [or], principal or political consultant
18 who is an attorney at law shall be referred to the board to
19 be investigated, considered and resolved in a manner
20 consistent with the Rules of Professional Conduct.

21 * * *

22 (f) Unlawful acts.--

23 (1) A lobbyist [or], principal or political consultant
24 may not:

25 (i) [Instigate] While engaged in lobbying on behalf
26 of the principal, instigate the introduction of
27 legislation for the purpose of obtaining employment to
28 lobby or providing political consulting services in
29 opposition to that legislation.

30 * * *

1 (vi) Commit a criminal offense arising from lobbying
2 or political consulting.

3 * * *

4 (x) Engage in conduct which brings the practice of
5 lobbying, political consulting or the legislative or
6 executive branches of State government into disrepute.

7 (xi) Lobby a State or county official or an employee
8 on the State or county official's staff after the
9 lobbyist, principal or political consultant has provided
10 political consulting services for the State or county
11 official. This prohibition shall only apply for the term
12 in which the State or county official was elected.

13 (xii) Provide political consulting services while
14 registered as a lobbyist or a principal.

15 * * *

16 Section 6. Section 13A08(a), (d)(1), (g), (h), (j) and (k)
17 of Title 65 are amended and subsection (d)(2) is amended by
18 adding a subparagraph to read:

19 § 13A08. Administration.

20 (a) Advice and opinions.--The commission shall provide
21 advice and opinions under section 1107 (relating to powers and
22 duties of commission) to a lobbyist, a lobbying firm, a
23 principal, a political consultant, the department, the board or
24 a State official or employee, that seeks advice regarding
25 compliance with this chapter. A person that acts in good faith
26 based on the written advice or opinion of the commission shall
27 not be held liable for a violation of this chapter if the
28 material facts are as stated in the request.

29 * * *

30 (d) Annual reporting.--

1 (1) The department shall prepare and publish an annual
2 report on lobbying and political consulting activities in
3 this Commonwealth.

4 (2) The department shall at least annually publish a
5 list of all of the following:

6 * * *

7 (iv) Registered political consultants.

8 * * *

9 (g) Investigation and hearings.--The commission, through its
10 executive director, may initiate an investigation and hold a
11 hearing concerning an alleged violation of this chapter by a
12 lobbyist [or], principal or political consultant in accordance
13 with sections 1107 (relating to powers and duties of commission)
14 and 1108 (relating to investigations by commission).

15 (h) Directory.--By May 1 of each odd-numbered year, the
16 department shall produce and distribute a directory of all
17 registered lobbyists, including photographs, registered
18 political consultants and registered lobbying firms. Copies of
19 the directory shall be made available to the public at a price
20 not to exceed the actual cost of production. All revenue
21 received by the department from the sales of the directory shall
22 be deposited into the fund.

23 * * *

24 (j) Inflation adjustment.--On a biennial basis [commencing
25 in January 2009], the department shall review the threshold
26 under section 13A06 (relating to exemption from registration and
27 expense reporting) for registration under section 13A04
28 (relating to registration) and the threshold for reporting under
29 section 13A05(d) (relating to expense reporting) and shall
30 increase these amounts to rates deemed reasonable for assuring

1 appropriate disclosure. On a biennial basis [commencing in
2 January 2009], the department shall review the filing fee
3 established under section 13A10 (relating to registration fees;
4 fund established; system; regulations) and may by regulation
5 adjust this amount if the department determines that a higher
6 fee is needed to cover the costs of carrying out the provisions
7 of this chapter. The department shall [publish], by June 1 of
8 every odd-numbered year, submit adjusted amounts to the
9 Legislative Reference Bureau for publication in the Pennsylvania
10 Bulletin [by June 1, 2009, and by June 1 every two years
11 thereafter as necessary].

12 (k) Notices.--Notices issued by the department or the
13 commission to a principal or lobbying firm, or to a political
14 consultant, in accordance with this chapter, shall be delivered
15 to the authorized representative, employee or agent.

16 Section 7. Section 13A09(a)(1.1), (2)(ii) and (5), (b)(2)
17 and (3), (c)(1) introductory paragraph, (2) and (3), (d), (e)
18 introductory paragraph, (f) and (g)(2) of Title 65 are amended
19 to read:

20 § 13A09. Penalties.

21 (a) Notice of alleged noncompliance.--

22 * * *

23 (1.1) In the case of a principal [or], lobbying firm or
24 political consultant, the notice shall be delivered to the
25 authorized representative, employee or agent.

26 (2) The notice shall state:

27 * * *

28 (ii) subject to subsection (f), the administrative
29 and criminal penalties for:

30 (A) failure to register;

1 (B) failure to file; or
2 (C) filing a report which contains a false
3 statement or which is incomplete.

4 * * *

5 (5) If the person does not request a hearing in
6 accordance with the notice, the alleged noncompliance shall
7 be deemed to constitute noncompliance with this chapter, and
8 subject to subsection (f), the commission shall impose a
9 penalty in accordance with subsection (b) (3) or (4).

10 (b) Hearing.--

11 * * *

12 (2) [**If**] Subject to subsection (f), if the commission
13 finds that failure to register or report was intentional, it
14 shall refer the matter to the Attorney General [**and**] or, if
15 the person is an attorney at law, to the board.

16 (3) [**If**] Subject to subsection (f), if the commission
17 finds that failure to register or report was negligent, it
18 shall determine the amount of the administrative penalty to
19 be imposed.

20 * * *

21 (c) Negligent failure to register or report.--

22 (1) [**Negligent**] Subject to subsection (f), negligent
23 failure to register or report as required by this chapter is
24 punishable by an administrative penalty not exceeding the
25 following:

26 * * *

27 (2) After a hearing under subsection (b), the commission
28 may, upon the majority vote of all of its members, but
29 subject to subsection (f), levy an administrative penalty.
30 The total amount of the administrative penalty levied shall

1 not be limited by any other provision of law.

2 (3) The commission shall notify the board of any
3 lobbyist [or], principal or political consultant who is an
4 attorney at law [against whom a civil penalty is imposed] and
5 who has been determined to be in noncompliance.

6 * * *

7 (d) Failure to comply after notice.--[A] Subject to
8 subsection (f), a person that fails to comply with the
9 requirements of this chapter, after notice of noncompliance and
10 after a hearing if one is requested, may be prohibited from
11 lobbying or from providing political consulting services for
12 economic consideration for up to five years. The prohibition
13 shall be imposed under subsection (e) (4).

14 (e) Intentional violations.--Subject to subsection (f):

15 * * *

16 (f) Attorneys.--[Nothing in this chapter shall be construed
17 as restricting the board's authority to discipline an attorney
18 at law who is acting as a lobbyist or principal.]
19 Notwithstanding any other provision of this chapter to the
20 contrary, a lobbyist subject to the Rules of Professional
21 Conduct promulgated by the Supreme Court shall only be
22 disciplined for a violation of this chapter as permitted by such
23 rules and nothing in this chapter shall be construed as
24 restricting the board's authority to discipline an attorney at
25 law who is acting as a lobbyist, political consultant or
26 principal.

27 (g) Affirmative defense.--Any of the following is an
28 affirmative defense to an action brought under Chapter 11
29 (relating to ethics standards and financial disclosure) or this
30 chapter:

1 * * *

2 (2) The respondent or defendant relied on notice under
3 section 13A05(b) (3) (iv) (relating to expense reporting).

4 * * *

5 Section 8. The provisions of this act are severable. If any
6 provision of this act or its application to any person or
7 circumstance is held invalid, the invalidity shall not affect
8 other provisions or applications of this act which can be given
9 effect without the invalid provision or application.

10 Section 9. This act shall take effect as follows:

11 (1) This section and section 8 of this act shall take
12 effect immediately.

13 (2) The amendment or addition of section 13A07(f) (1) (x),
14 (xi) and (xii) of Title 65 shall take effect January 1, 2023,
15 or immediately, whichever is later.

16 (3) The remainder of this act shall take effect in 60
17 days.