

Legislation Text

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Amending Chapter 20-1200 of The Philadelphia Code, entitled "Lobbying," by modifying certain definitions, provisions, and exemptions, all under certain terms and conditions.

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

SECTION 1. Chapter 20-1200 of The Philadelphia Code relating to Lobbying is hereby amended to read as follows:

CHAPTER 20-1200. LOBBYING.

§20-1201. Definitions.

(1) "Administrative action." Any of the following:

(a) An agency's:

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(ii) development or modification of a *written* statement of policy;

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(3) "Agency." *Any of the following, unless the lobbying of the entity is subject to 65 Pa. C.S. § 13A01 et seq.*

(a) Any office, department, board, commission, or other entity that is part of the government of the City of Philadelphia, including *City Council*.

(b) *The Philadelphia Industrial Development Corporation, the Philadelphia Authority for Industrial Development, the Redevelopment Authority of the City of Philadelphia, and any other entity that meets the definition of a "City-related agency" under Section 17-1401(9).*

(c) *The School District of Philadelphia, including any board or other instrumentality thereof.*

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(18) "Lobbying." An effort to influence legislative action or administrative action including:

- (a) direct or indirect communication;
- (b) incurring office expenses; and

(c) providing any gift, hospitality, transportation or lodging to a City official or employee for the purpose of advancing the interest of the lobbyist or principal.

For purposes of this Chapter, it is not lobbying when a principal, or a consultant or professional (e.g., an accountant, architect, attorney, doctor, or engineer), acting as the representative or agent of a principal or client, communicates with a City agency in a matter in which the principal or client is subject to or seeking a specific City agency action in which the principal's or client's interests, rights, or privileges are at issue, provided that such communication is in an effort to address those interests, rights, or privileges and is in the normal course for such matters. This exception shall not apply to efforts to influence general policy on behalf of an interest group, nor to direct communications with City officials or employees who the principal, representative, or agent knows or should know are not those who would ordinarily make determinations in the matter at issue.

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§20-1202. Registration.

(1) General Rule. Unless excluded under §20-1204, relating to exemption from registration and reporting, a lobbyist, lobbying firm or principal must register with the Board within ten days of [acting in any capacity as a lobbyist, lobbying firm or principal] *engaging in lobbying*. Registration shall be annual, shall be in such electronic format as is mandated by the Board, and shall begin July 1, 2011.

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§20-1203. Reporting.

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(2) *Expense Report Contents.*

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(i) When a City official or employee attends a reception in connection with his or her public office or employment at the invitation of and hosted by an organization and, at the reception, receives food, beverage, entertainment, and admission without charge, the fair market value of the same shall not be considered a gift to the individual official or employee within the meaning of this Chapter. Further provided, however, that if lobbying covered by this Chapter occurs at such a reception, such lobbying activity and any related expenditure must be reported pursuant to this Chapter.

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§20-1204. Exemption from registration and reporting. The following persons and activities shall be exempt from registration and reporting:

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(7) A City official or employee who acts in an official capacity, as well as elected or appointed officials and employees of the following jurisdictions, when acting in an official capacity: the Commonwealth, political subdivisions thereof, other States or political subdivisions thereof, and the federal government.

* * *

(10) Participating as a party or as an attorney at law or representative of a party[,] in a case or controversy, or in any administrative adjudication, including the entire process from potential dispute to final resolution. This includes all actions, including responses, questions, discussions, submissions, and settlement negotiations regarding any claim, controversy, assessment, voluntary tax disclosure, or letter ruling request. Provided, however, that this exemption shall not apply to efforts to influence general policy on behalf of an interest group, nor to direct communications with City officials or employees who the principal, representative, or agent knows or should know are not those who would ordinarily make determinations in the matter at issue.

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(13) For purposes of this Chapter, it is not lobbying when a principal, or a consultant or professional (e.g., an accountant, architect, attorney, doctor, or engineer), acting as the representative or agent of a principal or client, communicates with a City agency in a matter in which the principal or client is subject to or seeking a specific City agency action in which the principal's or client's interests, rights, or privileges are at issue, provided that such communication is in an effort to address those interests, rights, or privileges and is in the normal course for such matters. This exception shall not apply to efforts to influence general policy on behalf of an interest group, nor to direct communications with City officials or employees who the principal, representative, or agent knows or should know are not those who would ordinarily make determinations in the matter at issue.

(14) Communication with a City official or employee on a routine, ministerial matter. For purposes of this exemption, "routine, ministerial matters" include, but are not limited to, the following:

- (a) scheduling a meeting;
- (b) requesting information about the status of an administrative matter;
- (c) requesting forms or procedures;
- (d) requesting information on requirements for compliance with existing laws or regulations;
- (e) participating in an inspection required by law;

(f) responding to an audit conducted pursuant to law;

(g) performing services pursuant to an existing contract;

(h) inquiring about the delivery of services or materials pursuant to an existing contract;

(i) filing a complaint with a City agency to seek enforcement of existing laws or regulations;

(j) filing a response to a complaint or other enforcement action commenced by a City agency;

(k) applying for means-tested City services or benefits as an agent or representative of a specific individual for whom the services or benefits are sought.

(15) Activities of an individual volunteer, not undertaken for compensation, including an attorney rendering pro bono publico services in activities for improving the law.

§20-1205. Required and prohibited activities.

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(7) Contingent Compensation.

(a) A person may not compensate or incur an obligation to compensate a person to engage in lobbying for compensation contingent in whole or in part upon any of the following:

(i) Occurrence, nonoccurrence or amendment of legislative action.

(ii) Occurrence, nonoccurrence or amendment of an administrative action.

(b) A person may not engage in or agree to engage in lobbying for compensation contingent in whole or in part upon any:

(i) Occurrence, nonoccurrence or amendment of legislative action.

(ii) Occurrence, nonoccurrence or amendment of an administrative action.

(c) It shall not be a violation of this Chapter for an individual who is paid on a contingent or commission basis for the sale of goods or services to contact a City official or employee regarding the purchase by the City of such goods or services, provided that such individual is contacting only those City officials or employees who have responsibility for making purchasing decisions regarding such goods or services in the normal course.

(8) Unlawful Acts.

(a) A lobbyist or principal may not:

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(xi) Make a material misstatement or omission on a registration statement or expense report filed with the Board pursuant to this Chapter. *Provided, however, that if a lobbyist, lobbying firm, or principal learns that an already-filed registration statement or expense report included a material misstatement or omission and, within 15 days of learning the same, files an amended, corrected registration statement or expense report, it shall not be a violation of this Chapter; further provided, however, that this exception shall not apply in cases where the filer learns of the material misstatement or omission from the Ethics Board.*

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§20-1206. Administration.

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(2) Advice and Opinions. The Board shall provide an advisory opinion to a lobbyist, a lobbying firm, a principal, the Disciplinary Board, or a City official or employee who seeks advice regarding compliance with this Chapter, *or an individual or entity seeking to determine whether it is required to register and file expense reports pursuant to this Chapter.* A person who acts in good faith based on an advisory opinion issued to that person by the Board shall not be held liable for a violation of this Chapter if the material facts are as stated in the request.

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Explanation:

[Brackets] indicate matter deleted.
Italics indicate new matter added.