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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2016

A N A C T

RELATING TO GENERAL ASSEMBLY -- LOBBYING

Introduced By: Representatives Jacquard, Williams, Gallison, Ruggiero, and McEntee

Date Introduced: January 28, 2016

Referred To: House Judiciary

(Secretary of State)

It is enacted by the General Assembly as follows:

1 SECTION 1. Chapter 22-10 of the General Laws entitled "Lobbying" is hereby repealed
2 in its entirety.

3 ~~CHAPTER 22-10~~

4 ~~Lobbying~~

5 ~~**22-10-1. Declaration of intent.** (a) The preservation of responsible government~~
6 ~~requires that the fullest opportunity be afforded to the people of the state to petition their~~
7 ~~government for the redress of grievances and to express freely to individual legislators and to~~
8 ~~committees of the legislature their opinion on legislation and current issues; and~~

9 ~~(b) Public confidence in the integrity of the legislative process is strengthened by the~~
10 ~~identification of persons and groups who on behalf of private interests seek to influence the~~
11 ~~content, introduction, passage, or defeat of legislation and by the disclosure of funds expended in~~
12 ~~that effort.~~

13 ~~**22-10-1.1., 22-10-1.2. Repealed.**~~

14 ~~**22-10-2. Definitions.** For the purpose of this chapter the following definitions apply:~~

15 ~~(1) A person is "appointed" by another if he or she receives compensation for lobbying~~
16 ~~or pursuant to a mutual understanding or agreement engages in lobbying.~~

17 ~~(2) "Compensation" means any remuneration received or to be received for services~~
18 ~~rendered as a lobbyist, whether in the form of a fee, salary, forbearance, forgiveness,~~
19 ~~reimbursement for expenses, or any other form of recompense, and any combination of these.~~

1 ~~Where lobbying is incidental to a person's regular employment, his or her compensation for~~
2 ~~lobbying shall be reported as such and the lobbyist shall record the dollar amount of that portion~~
3 ~~of his or her compensation that is attributed to the time spent pursuing lobbying activities. In~~
4 ~~those instances, it shall not be necessary to disclose one's total salary or the percentage of one's~~
5 ~~time spent on lobbying. The lobbyist shall be required to disclose only his or her best good faith~~
6 ~~estimate of the dollar amount which corresponds to the portion of his or her time spent on~~
7 ~~lobbying activities.~~

8 ~~(3) "Lobbying" means acting directly or soliciting others to act for the purpose of~~
9 ~~promoting, opposing, amending, or influencing in any manner the passage by the general~~
10 ~~assembly of any legislation or the action on that legislation by the governor.~~

11 ~~(4) "Lobbyist" means any person who engages in lobbying as the appointed~~
12 ~~representative of another person.~~

13 ~~(5) "Person" means an individual, firm, business, corporation, association, partnership,~~
14 ~~or other group.~~

15 ~~(6) A "quasi public corporation" means a body corporate and politic acting as a public~~
16 ~~corporation, which has been organized pursuant to law and granted certain powers, rights and~~
17 ~~privileges by the general laws, while exhibiting a distinct legal existence from the state, and not~~
18 ~~constituting a department of the state government, in order to perform a governmental function.~~

19 ~~(7) "Major state decision maker" means:~~

20 ~~(i) All general officers; and all executive or administrative head or heads of any state~~
21 ~~executive agency enumerated in § 42-6-1 as well as the executive or administrative head or heads~~
22 ~~of state quasi public corporations, whether appointed or serving as an employee. The phrase~~
23 ~~"executive or administrative head or heads" shall include anyone serving in the positions of~~
24 ~~director, executive director, deputy director, assistant director, executive counsel or chief of staff;~~

25 ~~(ii) All members of the general assembly and the executive or administrative head or~~
26 ~~heads of a state legislative agency, whether appointed or serving as an employee. The phrase~~
27 ~~"executive or administrative head or heads" shall include anyone serving in the positions of~~
28 ~~director, executive director, deputy director, assistant director, executive counsel or chief of staff;~~

29 ~~(iii) All members of the state judiciary and all state magistrates and the executive or~~
30 ~~administrative head or heads of a state judicial agency, whether appointed or serving as an~~
31 ~~employee. The phrase "executive or administrative head or heads" shall include anyone serving in~~
32 ~~the positions of director, executive director, deputy director, assistant director, executive counsel,~~
33 ~~chief of staff or state court administrator.~~

34 ~~(8) "Advertising" means any communication disseminated by means of printing,~~

1 ~~mailing, electronic transmission, broadcasting or other medium.~~

2 ~~**22-10-2.1. Repealed.**~~

3 ~~**22-10-3. Exemptions.**~~ The following persons shall be exempt from the provisions of
4 this chapter:

5 ~~(1) Any elected public official or the official's designee acting in his or her official~~
6 ~~capacity.~~

7 ~~(2) News media executives or their employees or agents who in the ordinary course of~~
8 ~~business write, publish, or broadcast news items, editorials, or other comments or paid~~
9 ~~advertisements which directly or indirectly urge legislative action, if those persons engage in no~~
10 ~~other lobbying activities in connection with that action.~~

11 ~~(3) Persons engaged solely in drafting legislation.~~

12 ~~(4) Persons who appear solely for themselves or at the request of a legislative committee~~
13 ~~or any general officer to testify in a public forum in support of or in opposition to legislation.~~

14 ~~(5) Persons whose sole lobbying activity is testifying at a public hearing of a legislative~~
15 ~~committee or commission on behalf of a nonprofit organization and who receive no compensation~~
16 ~~from that nonprofit organization and for whom that organization expends no funds related to the~~
17 ~~appearance.~~

18 ~~**22-10-4. Lobbyists -- Limited activity.**~~ (a) A person whose sole lobbying activity is
19 ~~testifying at a public hearing of a legislative committee or commission no more than twice during~~
20 ~~the legislative session, either on behalf of a for-profit organization or entity or who receives~~
21 ~~compensation for the appearance, shall enter or cause to be entered his or her name in a separate~~
22 ~~register to be maintained in the office of the secretary of state, and shall be required to disclose:~~

23 ~~(1) The legislation by bill number and subject matter on which testimony will be given;~~

24 ~~(2) The name of the person, corporation, or association that engaged the person's~~
25 ~~services; and~~

26 ~~(3) The compensation, if any, that the person is to receive.~~

27 ~~(b) The person shall be exempt from all other reporting requirements of this chapter.~~

28 ~~**22-10-4.1. Governmental employees.**~~ Any employee of any branch of federal, state,
29 ~~or local government acting in his or her official capacity shall register his or her name and the~~
30 ~~agency which he or she represents in a separate register which shall be maintained by the~~
31 ~~secretary of state for that purpose. Each governmental employee shall annually register his or her~~
32 ~~name commencing with the year he or she begins lobbying activity. Governmental employees~~
33 ~~shall be exempt from the remaining provisions of this chapter. For the purposes of this~~
34 ~~exemption, agents and employees of public corporations shall not be considered state or local~~

1 employees.

2 ~~**22-10-5. Register -- Information shown -- Public records.**~~ The secretary of state
3 shall prepare and keep in conformity with the provisions of this chapter two (2) separate registers
4 for lobbyists. One shall be for persons lobbying on legislative matters, and one for lobbyists who
5 qualify under § 22-10-4. In these registers shall be entered the name and business address of the
6 employer, and the name, residence, and occupation of the persons employed for any lobbying
7 purpose in connection with legislation, the date of the employment or agreement for the
8 employment, the length of time the employment is to continue, if the time can be determined, and
9 the legislation by bill number or by the subject matter in the manner provided for in § 22-10-7.
10 Each register shall be a public record and open to the inspection of any citizen upon demand at
11 any time during regular business hours of the office of the secretary of state. Within ten (10) days
12 of any filing, the secretary of state shall forward a list of lobbyists in the register on legislative
13 matters to the chairperson of each standing committee of the house of representatives and the
14 senate.

15 ~~**22-10-6. Entry of names of lobbyists on register required.**~~ (a) Every person,
16 corporation, or association that engages any person to act as a lobbyist as defined in § 22-10-2
17 shall, after the commencement of the annual legislative session and within seven (7) days after
18 the date of the employment, cause the name of the person, corporation, or association and the
19 name of the person so engaged, or agreed to be engaged, to be entered in the register as provided
20 in § 22-10-5 in the office of the secretary of state. It shall also be the duty of the person so
21 engaged as a lobbyist to enter or cause to be entered his or her name in the register within seven
22 (7) days after his or her date of employment. Upon the termination of the engagement, that fact
23 shall be entered opposite the name of any person so engaged by the employer or employee.

24 (b) No person, corporation or association shall be allowed to cause the name of the
25 person, corporation or association and the name of the person so engaged to be entered into the
26 register of the office of the secretary of state unless full compliance, if any required, of the
27 provisions of this chapter have been met for the prior calendar year.

28 ~~**22-10-7. Entries as to additional subjects of legislation.**~~ (a) Every person,
29 corporation, or association employing any lobbyist, and the lobbyist, shall, whenever further
30 subjects of legislation are introduced or arise which the lobbyist is to promote or oppose, make or
31 cause to be made additional entries opposite their names in the register. Each entry shall state the
32 legislation by bill number or by the subject.

33 (b) The secretary of state shall prepare a form containing a comprehensive list of
34 legislative subjects which shall be provided to each registrant. The registrant shall designate on

1 that form the subject or subjects on which he or she intends to promote or oppose legislation. If
2 the person intends to lobby on a subject not so listed, he or she shall identify it by bill number or
3 by topic including a reference to the chapter of the general laws to be affected.

4 ~~**22-10-8. Identification badge.**~~ (a) There shall be issued by the secretary of state to
5 every person who shall qualify as a legislative lobbyist, as provided in this chapter, and who shall
6 have complied with the provisions of this chapter for the prior calendar year, if applicable, an
7 identification badge evidencing qualification in the form as shall be prescribed by the secretary of
8 state. Every lobbyist shall conspicuously display this identification badge on his or her clothing
9 while in the state house at all times of the day during any legislative session, special legislative
10 session, and at all times of the day during any committee meeting or joint committee meeting of
11 the general assembly. The badge shall include, but not be limited to, the word "Lobbyist" in bold
12 print as well as the name of the lobbyist, the year, and the name of the employer.

13 (b) An annual fee equal to the actual cost of preparing the badges, but not exceeding five
14 dollars (\$5.00) per entity represented, shall be paid by the lobbyist. The fee shall be paid to the
15 secretary of state at the time of registration for deposit in the state's general treasury.

16 ~~**22-10-9. Financial reports.**~~ (a) (1) Every person that engages any person to act as a
17 lobbyist concerning legislative matters, and the lobbyist, shall individually file with the secretary
18 of state a complete and itemized report of all expenditures made for the purpose of lobbying,
19 including, but not limited to, advertising expenses and all compensation paid to the lobbyists for
20 lobbying, and all campaign contributions in excess of one hundred dollars (\$100) to state and
21 municipal elected officials and state political action committees. The report shall also include any
22 expenditure, gift, or honorarium of twenty five dollars (\$25.00) or more for each occurrence
23 concerning any legislative or executive official paid or incurred by the person who engages the
24 lobbyist and the lobbyist. The report shall include the names of the individuals receiving or in
25 whose behalf the expenditures have been made, and the reason, date, and place of the
26 expenditures.

27 (2) Any function to which the entire membership of the general assembly, or of either
28 chamber or of any legally constituted legislative committee or commission within the general
29 assembly, is invited, which is sponsored by any person, corporation, or association having
30 engaged any person to act as a lobbyist, or by any lobbyist, shall be deemed a lobbying activity,
31 and any funds expended or incurred for that function shall be set forth in the financial report.

32 (3) The initial report shall be filed by the person, corporation, or association having
33 engaged any person to act as a lobbyist and by the lobbyist at the time of their initial registration,
34 and updated reports shall be filed with the secretary of state by the fifteenth (15th) day of each

1 ~~month thereafter, beginning in March until the earlier of the termination of the lobbyist's~~
2 ~~engagement or the final adjournment of the general assembly. A final report shall be filed no later~~
3 ~~than thirty (30) days after the earlier of the termination of the lobbyist's engagement or the final~~
4 ~~adjournment of the general assembly.~~

5 ~~(4) All reports shall be on a form prescribed by the secretary of state, and the reports~~
6 ~~shall be open for public inspection.~~

7 ~~(5) In the event no compensation has been paid or received, and no expenses have been~~
8 ~~paid or incurred, an annual statement to that effect may be filed with the secretary of state in lieu~~
9 ~~of the report form.~~

10 ~~(b) During any special session of the general assembly, every person, corporation, or~~
11 ~~association that engages any person to act as a lobbyist, and every lobbyist so engaged, shall~~
12 ~~register within twenty four (24) hours of the commencement of the session. The initial financial~~
13 ~~reports shall be filed within twenty four (24) hours after the date of the employment for the~~
14 ~~special session, and updated reports shall be filed every fourteen (14) days thereafter. The final~~
15 ~~report shall be filed no later than seven (7) days after the date of adjournment.~~

16 ~~(c) Not later than January 15 of each year, every lobbyist and every individual, firm,~~
17 ~~business, corporation, association, partnership, or other group which employed a lobbyist or~~
18 ~~engaged any person to act as a lobbyist or who was required to register with the office of~~
19 ~~secretary of state during the preceding year pursuant to § 22-10-6 shall file with the secretary of~~
20 ~~state a complete and detailed report of all money or anything of value which in the aggregate~~
21 ~~exceeds two hundred fifty dollars (\$250) provided or promised to any major state decision maker~~
22 ~~within the preceding calendar year. "Money" and "anything of value" in this subsection and in~~
23 ~~subsection (d) of this section shall mean any fee, salary, commission, expense allowance,~~
24 ~~forbearance, forgiveness, royalty, rent, capital gain, gift, loan, reward, favors or services,~~
25 ~~gratuities or special discounts, or any other form of recompense that constitutes income under the~~
26 ~~Federal Internal Revenue Code.~~

27 ~~(d) Not later than January 15 of each year, every individual, firm, business, corporation,~~
28 ~~association, partnership or other group specified in subsection (c) of this section shall provide an~~
29 ~~exact copy of the report required in subsection (c) of this section to the Rhode Island ethics~~
30 ~~commission and to any major state decision maker to whom it provided or promised money or~~
31 ~~anything of value which in the aggregate exceeds two hundred fifty dollars (\$250) within the~~
32 ~~preceding calendar year.~~

33 ~~**22-10-10. Duties and powers of the secretary of state.** The secretary of state shall~~
34 ~~have authority to perform any duties that are necessary to implement the provisions of this~~

1 ~~chapter. Without limiting the generality of the foregoing, the secretary of state is authorized and~~
2 ~~empowered to:~~

3 ~~(1) Develop forms for the making of the required financial reports.~~

4 ~~(2) Develop one register for legislative lobbyists and one register for limited activity~~
5 ~~lobbyists.~~

6 ~~(3) Adopt rules and regulations to carry out the purposes of this chapter.~~

7 ~~(4) Prepare and make available, for public inspection through the office of the secretary~~
8 ~~of state, summaries of all reports.~~

9 ~~(5) Prepare and publish a manual for all persons, corporations, or associations that~~
10 ~~engage any person as a lobbyist and for all lobbyists that sets forth the requirements of this~~
11 ~~chapter and conduct an annual education program for lobbyists to review the requirements of this~~
12 ~~chapter and chapter 139 of title 42 regarding lobbying activities and provide instruction on codes~~
13 ~~of ethics and conflicts of interest.~~

14 ~~(6) Ascertain whether any person, corporation, association, or lobbyist has failed to~~
15 ~~register or file reports or has filed an incomplete or inaccurate report; and the secretary may, for~~
16 ~~good cause shown, extend the dates upon which reports are required to be filed.~~

17 ~~(7) Conduct investigations and/or hearings relative to alleged violations of this chapter~~
18 ~~either on his or her own initiative or upon receipt of a verified written complaint, which~~
19 ~~complaint shall, upon pain and penalty of perjury, be based upon actual knowledge and not~~
20 ~~merely on information and belief. Upon completion of the investigation, if the secretary of state~~
21 ~~has reason to believe that a violation has occurred, the secretary may convene a hearing for the~~
22 ~~purpose of taking evidence and receiving testimony regarding the alleged violation. At this~~
23 ~~hearing, the person alleged to have committed the violation shall be afforded the opportunity to~~
24 ~~present evidence and offer testimony in his or her defense. Upon completion of the hearing, if the~~
25 ~~secretary of state determines by a preponderance of the evidence that a violation has occurred, the~~
26 ~~secretary shall order the lobbyist or person engaging a lobbyist to file any report or amended~~
27 ~~report that is necessary to immediately correct the violation. If the secretary determines by clear~~
28 ~~and convincing evidence that the violation was intentional and that the violator failed to comply~~
29 ~~when given notice of the deficiency, then he or she may impose an administrative penalty as~~
30 ~~provided in § 22-10-11(a). Any determination and/or administrative penalty imposed by the~~
31 ~~secretary of state may be appealed by the aggrieved party to superior court pursuant to the~~
32 ~~provisions of chapter 35 of title 42. If the secretary of state determines that the nature of the~~
33 ~~violation was of such seriousness and willfulness as to warrant a criminal complaint, he or she~~
34 ~~may refer the violation to the attorney general for prosecution as provided for in § 22-10-11(b).~~

1 ~~(8) Administer oaths.~~

2 ~~(9) Prepare and publish annually by March first (1st), a report on lobbying in Rhode~~
3 ~~Island to be submitted to the governor, the speaker of the house, the house majority leader, the~~
4 ~~house minority leader, the senate president, the senate majority leader, the senate minority leader,~~
5 ~~and members of the ethics commission. The annual report shall include information on lobbying~~
6 ~~activities as provided in §§ 22-10-4, 22-10-5, 22-10-9, 42-139-3, 42-139-4, 42-139-5, and 42-~~
7 ~~139-6. The report shall be made available electronically on the secretary of state's website.~~

8 ~~(10) Deny any person, corporation, or association that engages any person as a lobbyist~~
9 ~~and/or any lobbyist the ability to register with its office pursuant to section 12 of this chapter until~~
10 ~~such time as full compliance with this chapter, for the prior calendar year, if applicable, has been~~
11 ~~met.~~

12 ~~**22-10-11. Penalty for violations of chapter.** --- (a) Administrative penalty. --- Any person,~~
13 ~~corporation, association, or lobbyist who is found to have intentionally violated any provision of~~
14 ~~this chapter shall be subject to an administrative penalty not to exceed two thousand dollars~~
15 ~~(\$2,000) per violation which may be imposed by the secretary of state after a hearing complying~~
16 ~~with the procedures set forth in § 22-10-10(7).~~

17 ~~(b) Criminal penalty. --- Any person, corporation, or association that shall willfully fail to~~
18 ~~file reports when due or shall fail to comply with any provision of this chapter shall, upon~~
19 ~~conviction for that offense, be fined not less than five hundred dollars (\$500) nor more than ten~~
20 ~~thousand dollars (\$10,000). Any person employed as a lobbyist or agent who shall willfully fail to~~
21 ~~file reports when due or shall otherwise fail to comply with any provision of this chapter shall be~~
22 ~~fined not less than five hundred dollars (\$500) nor more than two thousand dollars (\$2,000), and~~
23 ~~shall be debarred from acting in the capacity of a lobbyist for the period of three (3) years from~~
24 ~~the date of conviction.~~

25 ~~**22-10-12. Lobbying without compliance prohibited.** --- No person shall appear as a~~
26 ~~lobbyist before any committee of the general assembly or either branch of the general assembly~~
27 ~~or engage in any lobbying activity unless his or her name appears upon the register for lobbyists.~~
28 ~~No person, private or public corporation, or association shall directly or indirectly employ any~~
29 ~~person as a lobbyist unless the name of that person, corporation, or association and the lobbyist~~
30 ~~are duly entered on the register as provided by this chapter. No person shall be employed as a~~
31 ~~lobbyist for compensation dependent in any manner upon the passage or defeat of any proposed~~
32 ~~legislation or upon any other contingency connected with the action of the general assembly, or of~~
33 ~~either branch or of any committee of the general assembly, or of the governor. Any person,~~
34 ~~corporation, or association violating this section shall be subject to the penalties set forth in § 22-~~

1 ~~10-11.~~

2 SECTION 2. Chapter 42-139 of the General Laws entitled "Executive Branch and Public
3 Corporation Lobbying" is hereby repealed in its entirety.

4 ~~CHAPTER 42-139~~

5 ~~Executive Branch and Public Corporation Lobbying~~

6 ~~**42-139-1. Declaration of intent.** --- (a) The preservation of responsible government~~
7 ~~requires that the fullest opportunity be afforded to the people of the state to petition their~~
8 ~~government for the redress of grievances and to express freely to members of the executive~~
9 ~~branch and to the management of public corporations their opinion on current issues and the~~
10 ~~management of government affairs; and~~

11 ~~(b) Public confidence in the integrity of the governmental process is strengthened by the~~
12 ~~identification of persons and groups who on behalf of private interests seek to influence the~~
13 ~~management of government and by the disclosure of funds expended in that effort.~~

14 ~~**42-139-2. Definitions.** --- For the purpose of this chapter the following definitions shall~~
15 ~~apply:~~

16 ~~(1) (i) "Lobbying" means acting directly or soliciting others to act for the purpose of~~
17 ~~promoting, opposing, or influencing: (A) any policy making decisions or policy making actions~~
18 ~~of the executive branch of government or of public corporations; or (B) any decisions or actions~~
19 ~~on the part of the executive branch of government or any public corporation involving the sale,~~
20 ~~lease or other alienation or encumbrance of any real property owned or leased by the state or any~~
21 ~~public corporation.~~

22 ~~(ii) None of the following activities shall constitute "lobbying" for purposes of this~~
23 ~~chapter:~~

24 ~~(A) Participation in or attendance at a rally, protest or other public assemblage organized~~
25 ~~for the expression of political or social views, positions or beliefs;~~

26 ~~(B) The solicitation of information about the rules, procedures, forms, programs or~~
27 ~~requirements of a department, agency, board, commission or public corporation;~~

28 ~~(C) Advocacy in connection with matters involving the determination of the rights,~~
29 ~~duties or obligations of an individual made on a case by case basis;~~

30 ~~(D) The issuance and dissemination of any publication, including data, research or~~
31 ~~analysis on public policy issues that is available to the general public, and including also any~~
32 ~~news media reports, editorials, commentary or advertisements;~~

33 ~~(E) Participation in a governmental advisory committee or task force;~~

34 ~~(F) Representation of one's own, wholly owned business entity;~~

1 ~~(G) Participation in a bid conference or responding to request for proposals issued by a~~
2 ~~state agency or department or by a public corporation;~~

3 ~~(H) Responding to a subpoena or to a request for information made by a state agency or~~
4 ~~department or by a public corporation;~~

5 ~~(I) Representation of a client in connection with the granting or denial of a permit,~~
6 ~~license or benefit, or with potential disciplinary action against the client; or~~

7 ~~(J) Participation in any proceeding pursuant to chapter 35 of this title.~~

8 ~~(2) (i) "Lobbyist" means a person who is employed and receives payment, or who~~
9 ~~contracts for economic compensation, for the purpose of lobbying, or a person who is principally~~
10 ~~employed for governmental affairs by another person or governmental entity to lobby on behalf~~
11 ~~of that other person or governmental entity.~~

12 ~~(ii) None of the following persons shall be deemed a "lobbyist" for purposes of this~~
13 ~~chapter:~~

14 ~~(A) A member of the Rhode Island Bar participating in an administrative or judicial~~
15 ~~proceeding;~~

16 ~~(B) A qualified expert witness testifying in an administrative proceeding;~~

17 ~~(C) An employee of any branch of federal, state or local government or of any public~~
18 ~~corporation to the extent that he or she seeks only to influence or affect decisions or actions of~~
19 ~~other governmental entities and public corporations solely on its own behalf;~~

20 ~~(D) Any member of the general assembly, any general officer of the state, any head of~~
21 ~~any executive department of state government, and any judge of this state acting in his or her~~
22 ~~official capacity.~~

23 ~~(3) "Compensation" means any remuneration received or to be received for services~~
24 ~~rendered as a lobbyist, whether in the form of a fee, salary, forbearance, forgiveness,~~
25 ~~reimbursement for expenses, or any other form of recompense, and any combination thereof.~~
26 ~~Where lobbying is incidental to a person's regular employment, his or her compensation for~~
27 ~~lobbying shall be reported as such and the lobbyist shall record the dollar amount of that portion~~
28 ~~of his or her compensation that is attributed to the time spent pursuing lobbying activities. In such~~
29 ~~instances, it shall not be necessary to disclose one's total salary or the percentage of one's time~~
30 ~~spent on lobbying. The lobbyist shall be required to disclose only his or her best good faith~~
31 ~~estimate of the dollar amount of which corresponds to the portion of his or her time spent on~~
32 ~~lobbying activities.~~

33 ~~(4) "Person" means an individual, firm, business, corporation, association, partnership,~~
34 ~~or other group.~~

1 ~~(5) "Public corporation" means a corporate entity within the purview of §§ 35-18-2(9)~~
2 ~~and 35-20-5(4) which is considered a governmental agency but which has a distinct legal~~
3 ~~existence from the state or any municipality, does not constitute a department of state or~~
4 ~~municipal government, and has the ability to sue or be sued in its own name.~~

5 ~~**42-139-3. Register -- Information shown -- Public records.** -- The secretary of state~~
6 ~~shall prepare and keep in conformity with the provisions of this chapter a register for executive~~
7 ~~branch and public corporation lobbyists. The register, required to be maintained under this~~
8 ~~section, may, in the discretion of the secretary of state, be incorporated into and/or made part of~~
9 ~~the register required to be maintained under § 22-10-5. In this register shall be entered the name~~
10 ~~and business address of the employer, and the name, residence, and occupation of the persons~~
11 ~~employed for any lobbying purpose regarding the executive branch or public corporations, the~~
12 ~~date of the employment or agreement therefore, the length of time the employment is to continue,~~
13 ~~if such time can be determined, and the subject matter regarding which contact is to be made.~~
14 ~~Each such register shall be a public record and open to the inspection of any citizen upon demand~~
15 ~~at any time during regular business hours of the office of the secretary of state. Within ten (10)~~
16 ~~days of any filing, the secretary of state shall forward a list of lobbyists in the register on~~
17 ~~executive branch and public corporation matters to the governor and to the chief executive of~~
18 ~~each public corporation.~~

19 ~~**42-139-4. Entry of names of lobbyists on register required.** -- (a) Every person,~~
20 ~~corporation, or association that engages any person to act as a lobbyist as defined in § 42-139-2~~
21 ~~shall, after the commencement of each annual session, within seven (7) days after the date of such~~
22 ~~employment, cause the name of the person, corporation, or association and the name of the person~~
23 ~~so engaged, or agreed to be engaged, as well as a brief summary of the subject matter, to be~~
24 ~~entered in the register as herein provided in the office of the secretary of state. It shall also be the~~
25 ~~duty of the person so engaged as a lobbyist to enter or cause to be entered his or her name in the~~
26 ~~register within seven (7) days after his or her date of employment. Upon the termination of the~~
27 ~~engagement, that fact shall be entered opposite the name of any person so engaged by the~~
28 ~~employer or employee.~~

29 ~~(b) No person, corporation or association shall be allowed to cause the name of the~~
30 ~~person, corporation or association and the name of the person so engaged to be entered into the~~
31 ~~register of the office of the secretary of state unless full compliance, if any required, of the~~
32 ~~provisions of this chapter have been met for the prior calendar year.~~

33 ~~**42-139-5. Entries as to additional subjects of lobbying.** -- (a) Every person,~~
34 ~~corporation, or association employing any lobbyist, and the lobbyist, shall, whenever further~~

1 ~~subjects are introduced or arise which the lobbyist is to promote or oppose, designate those~~
2 ~~subjects on the form prepared in accordance with subsection (b) of this section.~~

3 ~~(b) The secretary of state shall prepare a form containing a comprehensive list of~~
4 ~~subjects which shall be provided to each registrant. The registrant shall designate on that form the~~
5 ~~subject or subjects on which he or she intends to promote or oppose. If the person intends to~~
6 ~~lobby on the subject not so listed, he or she shall identify it by topic.~~

7 ~~**42-139-6. Financial reports.** (a) Every person, corporation, or association that engages~~
8 ~~any person to act as a lobbyist concerning executive or public corporation matters, and the~~
9 ~~lobbyist, shall individually file with the secretary of state a complete and detailed report of all~~
10 ~~compensation paid to the lobbyist for lobbying, and all campaign contributions in excess of one~~
11 ~~hundred dollars (\$100) or more to state and municipal elected officials and state political action~~
12 ~~committees. The report shall include the total amount expended for lobbying purposes, and an~~
13 ~~itemization of any expenditure, gift, or honorarium of twenty five dollars (\$25.00) or more for~~
14 ~~each occurrence paid or incurred by the person, corporation, or association or lobbyist for the~~
15 ~~specific purpose of promoting or opposing in any manner action by members of the executive~~
16 ~~branch or of public corporations. These reports shall include the names of the persons receiving~~
17 ~~or in whose behalf the expenditures have been made, and the reason, time, and place of the~~
18 ~~expenditures.~~

19 ~~(b) The initial report shall be filed by the person, corporation, or association having~~
20 ~~engaged any person to act as a lobbyist and by the lobbyist at the time of their initial registration,~~
21 ~~and updated reports shall be filed with the secretary of state semi-annually. The updated reports~~
22 ~~shall be filed no later than thirty (30) days after the end of each reporting period or if earlier, after~~
23 ~~the termination of the lobbyist's engagement, and shall include expenditures for the period from~~
24 ~~January 1 through June 30, and July through December 31, respectively or, if earlier, through the~~
25 ~~date of termination of the lobbyist's engagement.~~

26 ~~(c) All reports shall be on a form prescribed by the secretary of state, and the reports~~
27 ~~shall be open for public inspection.~~

28 ~~(d) In the event no compensation has been paid or received, and no expenses have been~~
29 ~~paid or incurred, an annual statement to that effect may be filed with the secretary of state in lieu~~
30 ~~of the report form.~~

31 ~~**42-139-7. Duties and powers of the secretary of state.** The secretary of state shall~~
32 ~~have authority to perform such duties as are necessary to implement the provisions of this~~
33 ~~chapter. Without limiting the generality of the foregoing, the secretary of state is authorized and~~
34 ~~empowered to:~~

- 1 ~~(1) Develop forms for the making of the required financial reports.~~
- 2 ~~(2) Develop registers for lobbyists who must register pursuant to this chapter.~~
- 3 ~~(3) Adopt rules and regulations to carry out the purposes of this chapter.~~
- 4 ~~(4) Prepare and make available for public inspection through the office of the secretary~~
5 ~~of state summaries of all reports.~~
- 6 ~~(5) Prepare and publish a manual for all persons, corporations or associations which~~
7 ~~engage any person as a lobbyist and for all lobbyists which sets forth the requirements of this~~
8 ~~chapter.~~
- 9 ~~(6) Ascertain whether any person, corporation, association, or lobbyist has failed to~~
10 ~~register or file reports or has filed an incomplete or inaccurate report; and the secretary may, for~~
11 ~~good cause shown, extend the dates upon which reports are required to be filed.~~
- 12 ~~(7) Conduct investigations and/or hearings relative to alleged violations of this chapter~~
13 ~~either on his or her own initiative or upon receipt of a verified written complaint, which~~
14 ~~complaint shall, upon pain and penalty of perjury, be based upon actual knowledge and not~~
15 ~~merely on information and belief. Upon completion of the investigation, if the secretary of state~~
16 ~~has reason to believe that a violation has occurred, the secretary may convene a hearing for the~~
17 ~~purpose of taking evidence and receiving testimony regarding the alleged violation. At this~~
18 ~~hearing, the person alleged to have committed the violation shall be afforded the opportunity to~~
19 ~~present evidence and offer testimony in his or her defense. Upon completion of the hearing, if the~~
20 ~~secretary of state determines by a preponderance of the evidence that a violation has occurred, the~~
21 ~~secretary shall order the lobbyist or person engaging a lobbyist to file such a report or amended~~
22 ~~report as is necessary to correct the violation forthwith. If the secretary determines by clear and~~
23 ~~convincing evidence that the violation was intentional and that the violator failed to comply when~~
24 ~~given notice of the deficiency, then he or she may impose an administrative penalty as provided~~
25 ~~in § 22-10-11(a). Any determination and/or administrative penalty imposed by the secretary of~~
26 ~~state may be appealed by the aggrieved party to superior court pursuant to the provisions of~~
27 ~~chapter 35 of this title. If the secretary of state determines that the nature of the violation was of~~
28 ~~such seriousness and willfulness as to warrant a criminal complaint, he or she may refer the~~
29 ~~violation to the attorney general for prosecution as provided for in § 22-10-11(b).~~
- 30 ~~(8) Administer oaths.~~

31 ~~**42-139-8. Penalty.** (a) Administrative penalty.— Any person, corporation, association,~~
32 ~~or lobbyist who is found to have intentionally violated any provision of this chapter shall be~~
33 ~~subject to an administrative penalty not to exceed one thousand dollars (\$1,000) per violation~~
34 ~~which may be imposed by the secretary of state after a hearing complying with the procedures set~~

1 ~~forth in this chapter.~~

2 ~~(b) Criminal penalty.— Any person, corporation, or association that shall willfully fail to~~
3 ~~file reports when due or shall otherwise fail to comply with any provision of this chapter shall,~~
4 ~~upon conviction for that offense, be fined not less than two hundred dollars (\$200) nor more than~~
5 ~~five thousand dollars (\$5,000). Any person employed as a lobbyist or agent who shall willfully~~
6 ~~fail to file reports when due or shall otherwise fail to comply with any provision of this chapter~~
7 ~~shall be fined not less than two hundred dollars (\$200) nor more than one thousand dollars~~
8 ~~(\$1,000), and shall be debarred from acting in the capacity of a lobbyist for the period of three (3)~~
9 ~~years from the date of conviction.~~

10 ~~**42-139-9. Lobbying without compliance prohibited.** — No person shall appear as a~~
11 ~~lobbyist or engage in any lobbying activity with respect to the executive branch or any public~~
12 ~~corporation unless his or her name appears upon the register for lobbyists. No person, private or~~
13 ~~public corporation, or association shall directly or indirectly employ any person as a lobbyist~~
14 ~~unless the name of that person, corporation, or association and the lobbyist are duly entered on~~
15 ~~the register as provided by this chapter. No person shall be employed as a lobbyist for~~
16 ~~compensation dependent in any manner upon the outcome of any proposal or upon any other~~
17 ~~contingency relating to action or inaction by the executive branch or the management of any~~
18 ~~public corporation. Any person, corporation, or association violating this section shall be subject~~
19 ~~to the penalties set forth in § 42-139-8.~~

20 SECTION 3. Title 42 of the General Laws entitled "STATE AFFAIRS AND
21 GOVERNMENT" is hereby amended by adding thereto the following chapter:

22 CHAPTER 139.1

23 THE RHODE ISLAND LOBBYING REFORM ACT

24 **42-139.1-1. Title.** -- This chapter shall be known and may be cited as "The Rhode Island
25 Lobbying Reform Act."

26 **42-139.1-2. Declaration of intent.** -- (a) The preservation of responsible government
27 requires that the people of the state be afforded the fullest opportunity to petition their
28 government officials and to express their opinions.

29 (b) Public confidence in the integrity of our government is strengthened by the
30 identification of those who seek to influence governmental actions and by the disclosure of funds
31 expended in that effort.

32 (c) The provisions of this chapter are intended to:

33 (1) Simplify and clarify the rules governing lobbying;

34 (2) Maximize transparency without imposing unnecessary burdens on the process;

1 (3) Promote a more user-friendly registration and reporting system; and

2 (4) Strengthen the investigation and enforcement scheme.

3 **42-139.1-3. Definitions.** -- (a) For the purposes of this chapter, the following definitions
4 apply:

5 (1) "Appointed" or "engaged" means receiving compensation from another for lobbying.

6 (2) "Compensation" means any remuneration or earnings received or to be received for
7 services rendered as a lobbyist, including any fee, salary, forbearance, forgiveness, or any other
8 form of recompense, and any combination of these, but does not include reimbursement for
9 incidental expenses.

10 (3) "Lobbying" means acting directly or soliciting others to act for the purpose of
11 promoting, opposing, amending, or influencing any action or inaction by any member of the
12 executive or legislative branch of state government, or any public corporation.

13 (4) "Lobbying firm" means a business entity that receives compensation for lobbying.

14 (5) "Lobbyist" means any of the following:

15 (i) A "contract lobbyist" means any person who engages in lobbying as the appointed or
16 engaged representative of another person; or

17 (ii) An "in-house lobbyist" means any employee, officer, director, or agent of a
18 corporation, partnership, or other business entity or organization whose job responsibilities
19 include lobbying; or

20 (iii) A "governmental lobbyist" means any employee of any federal, state, or local
21 government office or agency or any public corporation who engages in lobbying.

22 (6) "Money" and "anything of value" means any fee, salary, commission, expense
23 allowance, forbearance, forgiveness, royalty, rent, capital gain, gift, loan, reward, favor or
24 service, gratuity or special discount, or any other form of recompense that constitutes income
25 under the Federal Internal Revenue Code, but shall not include campaign contributions.

26 (7) "Person" means an individual, firm, business, corporation, association, partnership, or
27 other group.

28 (8) "Public corporation" means a body corporate and politic acting as a public
29 corporation, which has been organized pursuant to law and granted certain powers, rights, and
30 privileges by the general laws, but which has a distinct legal existence from the state, and is not a
31 department of the state.

32 (9) "Secretary" means the Rhode Island Secretary of State.

33 (b) None of the following persons shall be deemed a "lobbyist" for purposes of this
34 chapter:

1 (1) A licensed attorney who:

2 (i) Represents a client in a contested administrative proceeding, a licensing or permitting
3 proceeding, a disciplinary proceeding; or

4 (ii) Engages in any communications with an executive branch official or office if those
5 communications are incidental to the attorney's representation of their client rather than lobbying
6 activities as defined in this section.

7 (2) A qualified expert witness testifying in an administrative proceeding or legislative
8 hearing, either on behalf of an interested party or at the request of the agency or legislative body
9 or committee;

10 (3) Any member of the general assembly or their designee, any general officer of the state
11 or their designee, any municipal elected or appointed official or their designee, any head of any
12 executive department of state government, and any judge of this state acting in their official
13 capacity;

14 (4) Persons participating in a governmental advisory committee or task force;

15 (5) Persons appearing on behalf of a business entity by which they are employed or
16 organization with which they are associated, if that person's regular duties do not include
17 lobbying or government relations;

18 (6) Persons appearing solely on their own behalf;

19 (7) Employees or agents of the news media who write, publish, or broadcast news items
20 or editorials which directly or indirectly promote or oppose any action or inaction by any member
21 or office of the executive or legislative branch of state government.

22 **42-139.1-4. Registration and identification of lobbyists. --** (a) The secretary of state
23 shall maintain a register of lobbyists. The register shall be in a format, and shall contain such
24 information as the secretary of state may direct, and shall be maintained as a public document.

25 (b) Every lobbyist shall cause the following information to be entered into the register
26 within seven (7) days of any lobbying engagement and shall also register the termination of such
27 engagement.

28 (1) Name and address of the lobbyists;

29 (2) The legislation by bill number or by the subject matter(s) of the lobbying;

30 (3) The executive branch officials or public bodies to be lobbied;

31 (4) Compensation, except for those lobbyists employed by a lobbying firm;

32 (5) Any other information required by the secretary of state.

33 (c) No lobbyist shall be permitted to register if the lobbyist is not in compliance with the
34 provisions of this chapter, and any rules and regulations promulgated thereunder, for any prior

1 engagement.

2 (d) Subject to the seven (7) day grace period in subsection (b) of this section, no person
3 shall engage in any lobbying unless and until that person is registered as provided in this section.

4 (e) The secretary of state shall issue an identification badge to every person who registers
5 as a lobbyist, in a form prescribed by the secretary of state. Every lobbyist shall conspicuously
6 display this badge while engaged in any lobbying activity in a state government building. The
7 badge shall include the word "lobbyist" in bold print as well as the name of the lobbyist and a
8 lobbyist registration number.

9 **42-139.1-5. Registration of persons engaging lobbyists or lobbying firms. -- (a) The**
10 secretary of state shall maintain a register of persons that engage the services of a lobbyist or
11 lobbying firm. The register shall be in a format, and contain such information as the secretary of
12 state may direct, and shall be maintained as a public document.

13 (b) Every person engaging lobbyists or lobbying firms shall cause the following
14 information to be entered in the register within seven (7) days of any lobbying engagement, and
15 shall also register the termination of such engagement.

16 (1) The name and business address of the person engaging the lobbyist or lobbying firm;

17 (2) The name(s) of the lobbyist(s) or lobbying firm(s) employed;

18 (3) Total compensation paid to the lobbyist(s) or lobbying firm(s);

19 (4) And any other information required by the secretary of state.

20 (c) No persons engaging a lobbyist or lobbying firm shall be permitted to register if the
21 person is not in compliance with the provisions of this chapter, and any rules and regulations
22 promulgated thereunder, for any prior engagement.

23 **42-139.1-6. Quarterly lobbying reports -- Lobbyists. -- (a) Every registered lobbyist**
24 shall file with the secretary of state a report listing, for the indicated reporting period:

25 (1) All compensation that the lobbyist received for lobbying;

26 (2) The name(s) of the person(s) who paid the compensation;

27 (3) All expenditures made for the purpose of lobbying, other than routine office expenses;

28 (4) All money and anything of value provided or promised to any legislative or executive
29 branch official which in the aggregate exceeds two hundred fifty dollars (\$250) in the current
30 calendar year;

31 (5) All campaign contributions in excess of one hundred dollars (\$100) made to any
32 elected state official, candidate for state level elected office or political action committee;

33 (6) The legislation by bill number or by the subject matter(s) of the lobbying; and

34 (7) The executive branch officials or public bodies lobbied.

1 The lobbyist shall fully disclose the updated information upon filing each report.

2 (b) All reports shall be submitted on a form prescribed by the secretary of state, and the
3 reports shall be maintained as public documents.

4 (c) Reports required by this section shall be filed quarterly, by April 15, July 15, October
5 15, and January 15 of each calendar year and upon termination of the lobbyist's engagement.

6 (d) For purposes of this section, any in-house lobbyist as defined in §42-139.1-3, shall
7 disclose only that portion of the compensation which represents a fair estimate of the percentage
8 of time spent on lobbying.

9 (e) Governmental lobbyists, as defined in §42-139.1-3, shall be exempt from the financial
10 reporting requirements of subsection (a) of this section, except for the required report of
11 campaign contributions.

12 (f) For purposes of this section, any contract lobbyist, as defined in §42-139.1-3 who is
13 employed by a firm, corporation, partnership, or other entity shall disclose the total compensation
14 paid to that entity, and need not disclose the percentage of that compensation paid to individual
15 partners, members, or employees.

16 **42-139.1-7. Quarterly lobbying reports -- Persons engaging the services of lobbyists**
17 **or lobbying firms. --** (a) Every person who engages the services of a lobbyist or lobbying firm
18 shall file with the secretary of state a report listing, for the indicated reporting period:

19 (1) All compensation paid to lobbyists and lobbying firms for purposes of lobbying;

20 (2) All expenditures made for the purpose of lobbying, other than routine office expenses;

21 (3) All money and anything of value provided or promised to any legislative or executive
22 branch official which in the aggregate exceeds two hundred fifty dollars (\$250) in the current
23 calendar year;

24 (b) All reports shall be submitted on a form prescribed by the secretary of state, and the
25 reports shall be maintained as public documents.

26 (c) Reports required by this section shall be filed quarterly, by April 15, July 15, October
27 15, and January 15 of each calendar year and upon termination of the engagement with the
28 lobbyist or lobbying firm.

29 **42-139.1-8. Contingent fee lobbying. --** No person shall pay or accept any compensation
30 for lobbying which is based in whole or in part on the degree to which such lobbying is or was
31 successful in influencing any government action.

32 **42-139.1-9. Non-conforming reports -- Penalties. --** (a) The secretary shall inspect the
33 reports required by this chapter and if it appears in the secretary's reasonable discretion that any
34 such report does not conform to the provisions of this chapter, the secretary shall notify that

1 person in writing of the non-conformance. Upon a failure to correct the non-conformance within
2 fourteen (14) days after receiving notice, the secretary shall issue a show cause order against the
3 alleged violator requiring that person to establish facts which show reasonable cause as to why
4 applicable penalties should be waived. If the alleged violator does not establish facts reasonably
5 sufficient to show cause as to why penalties should not be imposed, the secretary may impose a
6 civil penalty of up to five thousand dollars (\$5,000) and may revoke the applicable registration
7 for a period of up to three (3) years.

8 (b) Any penalty imposed by the secretary in accordance with this section shall be
9 appealable by the aggrieved party to the superior court pursuant to the provisions of chapter 35 of
10 this title.

11 (c) When deemed appropriate in the secretary's reasonable discretion, the secretary may
12 notify the attorney general of a potential violation. The attorney general shall thereafter have the
13 authority to cause prosecutions to be instituted for violation of any provision of this chapter. Any
14 person who knowingly and willfully violates the provisions of this chapter shall be guilty of a
15 misdemeanor.

16 **42-139.1-10. Failure to register; Complaints. --** (a) On the secretary's own motion or
17 the sworn complaint of any person under the pains and penalty of perjury, the secretary may
18 initiate a preliminary investigation into the activities of any person who has allegedly been
19 engaged in lobbying without registration or who may be in violation of any provision of this
20 chapter. At the commencement of a preliminary investigation into any such alleged violation, the
21 secretary may notify the attorney general.

22 The secretary shall notify any person who is the subject of the preliminary investigation
23 of the existence of the investigation and the general nature of the alleged violation within thirty
24 (30) days of the commencement of such investigation.

25 (b) In connection with the preliminary investigation, the secretary may request the
26 production of books, papers or other documents directly relating to services rendered, work
27 performed or compensation received in connection with lobbying. If such information is not
28 willingly provided to the secretary, the secretary may petition the superior court for the approval
29 to issue subpoenas for such information in order to conduct its investigation of the alleged
30 violation. The superior court shall authorize a subpoena if the court determines a subpoena is
31 necessary for enforcement of this chapter. Subpoenas shall be enforceable by the superior court
32 through contempt powers.

33 (c) If the preliminary investigation fails to indicate probable cause that there has been a
34 violation, the secretary shall immediately terminate the investigation and notify the alleged

1 violator in writing within ten (10) days. For the purposes of this chapter "probable cause" means
2 there are specific and articulable facts, which taken together with rational inferences from those
3 facts, indicate a violation has occurred.

4 (d) If the preliminary investigation indicates that there exists probable cause that there
5 has been a violation, the secretary may petition the superior court for a declaratory judgment
6 regarding the suspected violation.

7 The superior court may require the production of relevant documentary evidence or
8 testimony.

9 (e) If the superior court determines by the preponderance of the evidence that a violation
10 of this chapter has occurred, the secretary may further petition the superior court for appropriate
11 relief, which may include an order to pay a civil penalty of up to five thousand dollars (\$5,000).

12 (f) Upon investigation and when deemed appropriate the attorney general may cause
13 prosecutions to be instituted for violation of any provision of this chapter. Any person who
14 knowingly fails to register as required by this chapter shall be guilty of a misdemeanor.

15 (g) Any and all records accumulated by the secretary in conjunction with the
16 investigation of an alleged violation shall be considered confidential, except that the secretary
17 may provide any records to the attorney general for use in a criminal proceeding.

18 **42-139.1-11. Duties and powers of the secretary of state. --** The secretary of state shall
19 have the authority to perform any duties that are necessary to implement the provisions of this
20 chapter. Without limiting the generality of the foregoing, the secretary of state is authorized and
21 empowered to:

22 (1) Develop forms for the required quarterly lobbying reports.

23 (2) Develop a form of register for persons who are required to register pursuant to this
24 chapter.

25 (3) Adopt rules and regulations to carry out the purposes of this chapter, including a
26 schedule of administrative penalties to be assessed for minor infractions, including the failure to
27 timely file any of the reports required by this chapter.

28 (4) Assess and collect registration fees that the secretary deems appropriate.

29 (5) Prepare and publish educational materials relating to the provisions of this chapter,
30 including, at the secretary's discretion, an instructional link and training video available on the
31 secretary's website.

32 **42-139.1-12. Severability. --** If any provision of this chapter is held to be invalid for any
33 reason, that invalidity shall not be construed to affect the validity of any other provisions in the
34 chapter.

1 SECTION 4. This act shall take effect on January 1, 2017.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO GENERAL ASSEMBLY -- LOBBYING

1 This act would repeal chapter 10 of title 22, lobbying, and chapter 139 of title 42,
2 executive branch and public corporation lobbying, and would enact the Rhode Island lobbying
3 reform act.

4 This act would take effect on January 1, 2017.

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