



City of Philadelphia

Philadelphia, PA 19107

BILL NO. 050461

Introduced May 19, 2005

Councilmember Cohen

**Referred to the
Committee on Law and Government**

AN ORDINANCE

Amending Title 20 of The Philadelphia Code, entitled "Officers and Employees," by adding a new Chapter entitled "Lobbying," under certain terms and conditions.

WHEREAS, City government functions to serve the needs of all citizens, and the citizens of the City of Philadelphia have a right to know the identity of interests which attempt to influence decisions of City government, as well as the means employed by those interests; and

WHEREAS, All persons engaged in lobbying activities aimed at influencing decisions by City government must, when so engaged, be subject to the same regulations, restrictions and requirements, regardless of their background, training or other professional qualifications or license; and

WHEREAS, Complete public disclosure of the full range of activities by and financing of lobbyists and those who employ their services is essential to the maintenance of citizen confidence in the integrity of local government; and

WHEREAS, It is in the public interest to ensure that lobbyists do not misrepresent facts, their positions, or attempt to deceive officials through false communications, do not place City officials under personal obligation to themselves or their clients, and do not represent that they can control the actions of City officials; and

WHEREAS, It is in the public interest to adopt these amendments to The Philadelphia Code to ensure adequate and effective disclosure of information about efforts to lobby City government; now therefore,

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

City of Philadelphia

BILL NO. 050461 continued

SECTION 1. Title 20 of The Philadelphia Code relating to Officers and Employees is hereby amended to add the following new Chapter:

CHAPTER 20-1100. LOBBYING.

§20-1101. Definitions. In addition to the definitions provided in Section 1-103 of this Code, the words and phrases when used in this chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

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

(a) Any determination made by an agency or by an elected City official or an officer or employee of the City with respect to:

(.1) proposal, consideration, promulgation, amendment or rescission of a rule or regulation;

(.2) development or modification of a guideline or a statement of policy;

(.3) the procurement of goods, services, or construction;

(.4) the preparation of contract specifications, or the preparation of a Request for Proposals or Request for Qualifications, or the solicitation, award, or administration of a contract;

(.5) the solicitation, award, or administration of a grant, loan, or agreement involving the disbursement of public monies;

(.6) any determination with respect to zoning or the use, development or improvement of real property subject to City regulation; or

(.7) any determination with respect to the terms of the acquisition or disposition by the City of any interest in real property, with respect to a license or permit for the use of real property of or by the City, or with respect to a franchise, concession or revocable consent.

(b) The Mayor's approval or veto of legislation.

(c) The nomination or appointment of an individual as an officer or employee of the City.

City of Philadelphia

BILL NO. 050461 continued

(d) The proposal, consideration, promulgation or rescission of an executive order.

(e) Any determination, adjudication, or recommendation by a City board or commission.

(2) "Agency." Any office, department, board, commission or other entity that is part of any branch of the government of the political subdivision that is the City of Philadelphia.

(3) "Compensation." Anything of value, including benefits, received or to be received from a principal by one acting as a lobbyist.

(4) "Direct communication." An effort, whether written, oral or by any other medium, made by a lobbyist or principal, directed to a City official or employee, the purpose or foreseeable effect of which is to influence legislative action or administrative action.

(5) "Economic consideration." Anything of value offered or received.

(6) "Gift." Something provided for free or for less than equal value in exchange. A Gift may include an object, service, payment, subscription, advance, forbearance, rendering or deposit of money or anything of value, unless consideration of equal or greater value is received.

(7) "Indirect communication." An effort, whether written, oral or by any other medium, to encourage others, including the general public, to take action, the purpose or foreseeable effect of which is to directly influence legislative action or administrative action. The term includes letter-writing campaigns, mailings, telephone banks, print and electronic media advertising, billboards, publications and educational campaigns on public issues. The term does not include regularly published periodic newsletters primarily designed for and distributed to members of a bona fide association or charitable or fraternal nonprofit corporation.

(8) "Legislation." Bills, resolutions, amendments and nominations pending or proposed in City Council.

(9) "Legislative action." An action taken by a City official or employee involving the preparation, research, drafting, introduction, consideration, modification, amendment, approval, passage, enactment, tabling, postponement, defeat or rejection of legislation; legislative motions; overriding or sustaining a veto by the Mayor; or confirmation of appointments by the Mayor or of appointments to City boards or commissions.

(10) "Lobbying." An effort to influence legislative action or administrative action. The

City of Philadelphia

BILL NO. 050461 continued

term includes:

(a) providing any gift, entertainment, meal, transportation or lodging to a City official or employee for the purpose of advancing the interest of the lobbyist or principal; and

(b) direct or indirect communication.

(11) "Lobbyist." Any individual, firm, association, corporation, partnership, business trust or business entity that engages in lobbying on behalf of a principal for economic consideration. The term includes an attorney who engages in lobbying.

(12) "Officer or employee of the City." As "officer or employee" is defined in Code section 20-601 (relating to definitions).

(13) "Principal." Any individual, firm, association, corporation, partnership, business trust or business entity:

(a) on whose behalf a lobbyist influences or attempts to influence an administrative action or a legislative action; or

(b) that engages in lobbying on the principal's own behalf.

(14) "Registrant." A registered lobbyist or a registered principal.

(15) "Regulation." Any regulation promulgated in accordance with Section 8-407 of the Home Rule Charter.

(16) "Rule." Any rule promulgated in accordance with Section 8-406 of the Home Rule Charter.

§20-1102. Registration.

(1) General Rule.-- Unless excluded under section 20-1104 (relating to exemption from registration and reporting), a lobbyist or a principal must register with the Board of Ethics within fourteen (14) days of first acting in any capacity as a lobbyist or principal. Registration thereafter shall be annually no later than the next working day after January 31, but no earlier than January 2.

(2) Principals.--

City of Philadelphia

BILL NO. 050461 continued

(a) A principal required to register shall file the following information with the Department of Records, in care of the Board of Ethics:

(.1) Name.

(.2) Permanent address.

(.3) Daytime telephone number.

(.4) Name and nature of business.

(.5) Name, registration number and acronyms of affiliated political action committees.

(.6) Name and permanent business address of each individual who will for economic consideration engage in lobbying on the principal's behalf.

(.7) If an organization or association is a principal, the number of dues-paying members in the past calendar year.

(3) Lobbyist.--

(a) A lobbyist who is required to register shall file the following information with the Department of Records, in care of the Board of Ethics:

(.1) Name.

(.2) Permanent business address.

(.3) Daytime telephone number.

(.4) A recent picture of the lobbyist.

(.5) Name, permanent business address and daytime telephone number of the principal the lobbyist represents.

(.6) Name, registration number and acronyms of affiliated political action committees.

(b) Each lobbyist shall file a separate registration statement for each

City of Philadelphia

BILL NO. 050461 continued

principal he or she represents.

(4) Amendments.--

(a) When there is a change of information required for the registration statement under this section, an amended statement shall be filed with the Department of Records, in care of the Board of Ethics, within 14 days after the change occurs, except for information under Section 20-1102(2)(a)(.7).

(b) When there is a change in information required for the registration statement under subsection 20-1102(2)(a)(.7), an amended statement shall be filed with the Department of Records, in care of the Board of Ethics within 14 days of the end of the year in which the change occurs.

(5) Termination.-- A lobbyist or a principal may terminate registration by filing notice with the commission. Within 30 days of filing the notice, the lobbyist or principal shall file a termination report, which shall include all information required by section 20-1103 (relating to reporting) through the final day of lobbying activity.

§20-1103. Reporting.

(1) General Rule.-- A registered principal shall, under oath or affirmation, file quarterly expense reports with the Department of Records in care of the Board of Ethics.

(2) Content.--

(a) Reports must list the names of all lobbyists by whom the lobbying is conducted and the general subject matter or issue being lobbied.

(b) Expense reports must contain the following categories:

(.1) A single aggregate good faith estimate of the total amount spent for personnel and office expenses related to lobbying, including salaries and other forms of compensation, benefits, vehicle allowances, bonuses and reimbursable expenses for those involved in lobbying and costs for offices, equipment and supplies utilized for lobbying. If compensation is to be reported by or for an individual or entity whose lobbying is incidental to regular employment, it shall be sufficient to report a good faith prorated estimate based on the value of the time devoted to lobbying. Reportable personnel costs include costs for lobbying staff, research and monitoring staff, consultants, lawyers, lobbyists, publications and public relations staff, technical staff and clerical and

City of Philadelphia

BILL NO. 050461 continued

administrative support staff who engage in lobbying but are exempt from reporting under section 20-1104 (relating to exemption from registration and reporting).

(.2) A single aggregate good faith estimate of the total amount spent for direct communication.

(.3) The total costs for gifts, entertainment, meals, transportation, lodging and receptions, given to or provided to City officers or employees or their immediate families.

(.4) A single aggregate good faith estimate of the total amount spent for indirect communication.

(c) In addition to reporting the totals required under this subsection the expense report must identify, by name, position and each occurrence,

(.1) any City officer or employee who receives from a principal or lobbyist anything of value, including any gift, honorarium, expense reimbursement, or income under this Chapter or Chapter 20-600;

(.2) any City elected official, candidate for City elected office, or political committee that receives a contribution from a principal or lobbyist. For purposes of this provision, the terms “candidate,” “political committee,” and “contribution” shall have the meanings as provided in Section 20-1001 (“definitions”).

(3) Records Retention.-- A principal shall retain all documents reasonably necessary to substantiate the reports to be made under this section for four years from the date of filing the subject report. Upon request by the Law Department or the Board of Ethics, these materials shall be made available for inspection within a reasonable period of time.

(4) Thresholds For Reporting.-- An expense report shall be filed when total expenses for lobbying exceed \$500 for a registered principal or a registered lobbyist in a reporting period. In a reporting period in which total expenses are \$500 or less, a statement to that effect shall be filed.

(5) Voluntary Disclosure.-- Nothing in this section shall prevent a principal from disclosing expenses in greater detail than required.

§20-1104. Exemption from registration and reporting.

The following individuals and activities shall be exempt from registration under section

City of Philadelphia

BILL NO. 050461 continued

20-1102 (relating to registration) and reporting under section 20-1103 (relating to reporting):

(1) An individual who participates as a witness, attorney or other representative or otherwise appears before Council or a committee thereof or before an administrative proceeding of an agency, with respect to all participation by such person which is a part of the public record thereof and all preparation by such person for such public participation.

(2) An elected or appointed City officer or employee acting in an official capacity.

(3) An employee of the Commonwealth or independent agency of the Commonwealth acting in an official capacity.

(4) An employee, who is not a registered lobbyist, of a corporation which:

(a) is registered as a principal under section 20-1102;

(b) has one or more registered lobbyists; and

(c) includes in its reports under section 20-1103 all of the employee's expenses related to lobbying.

§20-1105. Prohibited Activities.

(1) Contingent Compensation.--

(a) No person may retain or employ any lobbyist for compensation, the rate, amount or payment of which is contingent in whole or in part upon any of the following:

(.1) Occurrence or nonoccurrence of legislative action.

(.2) Occurrence or nonoccurrence of an administrative action.

(b) No lobbyist, principal or individual may engage or agree to engage in lobbying for compensation contingent in whole or in part upon any of the following:

(.1) Occurrence or nonoccurrence of legislative action.

(.2) Occurrence or nonoccurrence of an administrative action.

City of Philadelphia

BILL NO. 050461 continued

(2) Fee Restrictions.-- A lobbyist may not charge a fee or receive compensation or economic consideration based upon an understanding, either written or oral, that any part of the fee, compensation or economic consideration will be converted into a contribution to a candidate for public office or a political committee.

(3) Falsification.-- No lobbyist or principal may, for the purpose of influencing legislative action or administrative action, transmit, utter or publish to any City officer or employee any communication, knowing that such communication or any signature on the communication is false, forged, counterfeit or fictitious.

§20-1106. Administration and Enforcement.

(1) Criminal Enforcement.-- If the Board of Ethics believes an intentional violation of this chapter has been committed, it shall refer all relevant documents and other information to the Office of Inspector General or relevant law enforcement agency, upon the advice of the Law Department.

(2) Advice And Opinions.-- The Board of Ethics shall provide advice and opinions in accordance with procedures set forth in Chapter 20-600 to a lobbyist, principal or City officer or employee who has a question regarding compliance with this Chapter. A principal, a lobbyist or an individual who acts in good faith based on the written advice or opinion of the Board of Ethics shall not be held liable for a violation of this Chapter.

(3) Public Inspection And Copying.-- The Department of Records shall make completed registration statements, expense reports, termination notices and termination reports, which have been filed at the Department of Records, available for public inspection and provide copies of these documents in accordance with the fee schedule that the Department applies to other requests for public documents. Documents that are maintained and reproducible in an electronic format shall be provided in that format upon request.

(4) Retention Of Records.-- Completed registration statements, expense reports, termination notices and termination reports shall remain on file with the Board of Ethics at the Department of Records for a four-year period.

(5).—The Department of Records shall have the power and duty, unless otherwise provided by this Title, to provide by regulation, upon the advice of the Board of Ethics, for the establishment of fees reasonably related to costs for any filings under this Chapter, to devise forms for required filings, and to provide other administrative details implementing this Chapter.

§20-1107. Penalties.

City of Philadelphia

BILL NO. 050461 continued

(1) *Any person who violates a provision of this Chapter shall be punishable by a fine not exceeding the maximum penalty as provided in the following schedule:*

(a) for any violation committed between January 1, 2005 and December 31, 2005, seven hundred (700) dollars for each violation;

(b) for any violation committed between January 1, 2006 and December 31, 2006, one thousand one hundred (1,100) dollars for each violation;

(c) for any violation committed between January 1, 2007 and December 31, 2007, one thousand five hundred (1,500) dollars for each violation;

(d) for any violation committed between January 1, 2008 and December 31, 2008, one thousand nine hundred (1,900) dollars for each violation; and

(e) for any violation committed on January 1, 2009 or thereafter, two thousand (2,000) dollars for each violation.

(2) *In addition, any person in violation of this Chapter shall be punishable by debarment from any contract with the City for a period of up to three (3) years, or, unless a principal, prohibition from lobbying for up to five years, or both.*

(3) *Repeat Offenders. Any person who commits, on more than one occasion, a violation of a provision of this Chapter, shall be guilty of a separate offense of Repeat Violation, and for each such Repeat Violation, shall be subject to a fine of not more than the maximum provided in subsection (1) of this Section, or imprisonment for not more than ninety (90) days, or both. A person shall be guilty of a Repeat Violation regardless whether the second or subsequent violation occurs before or after a judicial finding of a first or previous violation. Each violation, after the first, shall constitute a separate Repeat Violation offense.*

§20-1108. *Severability.*

If any provision of this Ordinance or the application thereof to any person or circumstances is held invalid, the invalidity shall not affect other provisions or applications of the Ordinance which can be given effect without the invalid provision or application and to this end the provisions of this Ordinance are severable.

SECTION 2. Effective date. This Ordinance shall be effective in 60 days.

City of Philadelphia

BILL NO. 050461 continued

Explanation:

Italics indicate new matter added.

City of Philadelphia

BILL NO. 050461 continued