

SEATTLE'S NEW LOBBYING LAW

A Guide for Filers

In March 2008, the Seattle City Council voted to require that individuals paid to lobby the City Council and the Mayor's office register with the Seattle Ethics and Elections Commission. The law went into effect on September 17, 2008.

This guide provides an overview of who must file with the Commission and how they must file. This guide will be updated as the Commission gains experience with the new lobbying law. If you have suggestions for improvements to the guide or changes to the law or rules, do not hesitate to e-mail the Commission at ethicsandelections@seattle.gov, or call the Commission at 684-8500. You should also contact the Commission if you have questions about how the law applies to a specific scenario.

1. Who Must Report Lobbying Activity?

Individuals who are paid or receive other consideration to communicate with the City Councilmembers, legislative department staff, the Mayor, or his staff in an attempt to influence legislation must register and report unless they qualify for one of the exemptions discussed below.

Lobbyists' employers must also file reports. Under the law, the employer is the person or entity on whose behalf an individual is lobbying. So if John Smith works for ABC Inc., and lobbies on ABC's behalf, then ABC is his employer. If Joan Smith works for a law firm, and lobbies on XYZ's behalf, then XYZ, not the law firm, is her employer for the purposes of filing reports under the lobbying law.

2. What Does It Mean to be a "Paid Lobbyist?"

There are two kinds of lobbyists covered by the new law. When a person or entity enters into a contract with someone to lobby on that person or entity's behalf, the law requires that that lobbyist register with the Commission. The lobbyist's compensation will be a function of the contract between the person or entity and the lobbyist.

When an employee lobbies in the course of his or her employment, that employee must file as a lobbyist as well. For example, if a company's general counsel advocates on the company's behalf for the introduction or passage of a bill, then that general counsel must register as a lobbyist unless he or she qualifies for an exemption.

As compensation, a regular employee will need to report the portion of his or her salary attributable to lobbying and preparation for lobbying. So, for example, if the general counsel earns \$100 per hour, and spends twenty hours in a quarter lobbying or preparing to lobby, the general counsel would report \$2,000 as compensation for lobbying for that calendar quarter.

Hourly employees who contact City officials on their own time do not need to register as lobbyists because they are not paid to lobby. Similarly, salaried employees who (1) do not lobby in the course of their employment, (2) do not lobby on “company time,” and (3) do not use their employers’ resources to lobby, need not register.

3. Who is Exempt from Registering and Reporting?

Lobbyists who appear only at public sessions of the City Council or its committees do not have to file. Their activities are already a matter of public record.

Lobbyists who restrict their lobbying to four days or parts thereof during a calendar quarter – January through March, April through June, July through September, and August through December – are not required to file. Appearances before public sessions of the City Council or its committees do not count toward the filing threshold.

“Four days or parts thereof” does *not* mean 32 hours. If a lobbyist has a single 10-minute telephone call with a City Councilmember on a Tuesday afternoon, that day counts as one of the “four days or parts thereof.”

City employees acting in the course of their City employment do not need to register. Nor do employees of other governments, unless they spend more than 20 percent of their time in a calendar quarter lobbying or preparing to lobby.

4. What is Lobbying?

Lobbying is defined as communicating with City Councilmembers, legislative department staff, the Mayor, or his staff, to influence legislation. Lobbying is not limited to face-to-face contact. Telephone calls, letters, and e-mails are all communications that, if intended to influence, are captured under the law. On the other hand, a call to simply schedule a meeting does not constitute a lobbying contact.

Influencing legislation is defined to include not just lobbying on a specific bill, but attempting to influence elected officials or staff to “develop, propose, draft, consider or reconsider, promote, adopt, enact, reject, take favorable action upon, approve, disapprove, veto, or fail to take action upon legislation.”

Under City law, only those who are paid to lobby have a reporting obligation.

5. How are Reports Filed?

The Seattle Ethics and Elections Commission has been charged with administering and enforcing the Lobbying Code, SMC 2.06. The Commission has established an Electronic Filing System, which lobbyists can access at www2.ci.seattle.wa.us/ethics/lobbyfiler/login.asp.

6. When do Lobbyists have to Register and Report?

A paid lobbyist must register with the City prior to lobbying the first time, or within 30 days of becoming a lobbyist, whichever comes first. If a lobbyist expects to qualify for the exemption for lobbying on no more than four days or parts thereof in a calendar quarter, then the lobbyist must register before lobbying on a fifth day.

Lobbyists must file quarterly reports April 15, July 15 and October 15 for the previous calendar quarter. On January 15, the lobbyist must file an Annual Report. When the 15th falls on a weekend or a holiday, reports are due the following business day.

7. What Must Lobbyists Report?

The goal of the reporting requirement is to show (1) who is paying (2) whom, (3) how much, to lobby. There is no mechanism for reporting the dates of lobbying contacts, or the nature of those contacts, or the public officials lobbied.

Here is the information lobbyists will need to provide when they register:

Information about the lobbyist:

- Name, address, telephone number, and e-mail address.

Information about the lobbyist's employer:

- Name, address, telephone number, e-mail address.
- Occupation or business.

Information about the engagement:

- Expected duration of the lobbyist's employment.
- Compensation for lobbying (whether provided to the lobbyist or a lobbying entity).
- Whether expenses will be reimbursed and, if so, what expenses will be reimbursed.
- Whether the employee provides other services to the employer, or strictly acts as a lobbyist.
- Subjects or legislation to be lobbied, if known. Provide the council bill, ordinance, resolution, or initiative number, if one has been established.

Employer Authorization: Written authorization from each employer confirming employment. The lobbyist's employer can provide written authorization by:

- E-mail to ethicsandelections@seattle.gov,
- Fax (206) 684-8590, or

- US Mail to SEEC, 700 5th Ave, Suite 4010, PO Box 94729, Seattle WA 98124-4729.
- ❑ **Custodian of Records:** Name address, telephone and email address of the person who will have custody of the accounts, bills, receipts, books, papers and documents required to be maintained.
- ❑ **If the lobbyist is employed through a lobbying entity, such as a law firm, consulting firm, public relations firm or a similar organization:**
 - Name of the lobbying entity.
 - Total compensation to be paid to the entity.
- ❑ **If the lobbyist is employed by a business or trade organization:**
 - Name and address of each business or trade association or other organizational member of such lobbying entity.
 - Name of each person (individual or organization) who has paid the entity more than \$500 (not including membership dues) in the past two years, or has already or agreed to pay more than \$500 for lobbying activities during the current year.

Here is the information lobbyists will need to provide quarterly

- ❑ **Compensation for lobbying and preparing to lobby.**
- ❑ **Expenditures for lobbying activity:** Expenditures are broken down into the following categories: Food and refreshments, living accommodations, travel, entertainment and other expenses or services (including but not limited to minor incidental expenses). *Lobbyists are encouraged to contact the Ethics and Elections Commission before providing food, refreshments or entertainment to City officials or employees. City officials and employees may violate the Ethics Code if they accept anything of value from people trying to influence their official actions.*

Unreimbursed expenses for telephone, office space or office rents, or salaries for staff and secretarial assistance are not required to be included in the report.

- ❑ **Legislation being lobbied:** The lobbyist report must also include a description of the legislation being supported or opposed during the reporting period, and the council bill, ordinance, resolution, or initiative number, if established.

8. What Must Lobbyists' Employers Report?

A lobbyist's employer must:

- ❑ Confirm the lobbyist's employment in writing. The Lobbyist's employer can provide written authorization by
 - E-mail to ethicsandelections@seattle.gov, or
 - Fax (206) 684-8590, or
 - US Mail to SEEC, 700 5th Ave, Suite 4010, PO Box 94729, Seattle WA 98124-4729.

- Certify the report filed by the lobbyist no later than January 15 for the preceding calendar year, or
- File a report with the Commission no later than the last day of February for the previous calendar year that includes the following information:
 - Total expenditures made by the employer for lobbying.
 - Legislation being lobbied on for which employer expended funds.
 - Name, address, telephone number, and email address of each lobbyist or lobbying entity employed by the Employer, and
 - Total expenditures made by the Employer for each lobbyist or lobbying entity for lobbying.

9. What Happens When the Terms of a Lobbyist’s Engagement Change, or the Lobbyist Ends His or Her Work for an Employer?

Within 30 days of a change to the terms of a lobbyist’s engagement, or 30 days of a lobbyist’s cessation of work for an employer as a lobbyist subject to the lobbying law, the lobbyist must amend his or her registration statement.

Example: On November 1, Joan Smith and ABC Inc. negotiate a new retainer, under which ABC will increase its payments to Smith by \$500 per month. Smith must amend her registration on or before November 30 to reflect the new compensation she’ll receive as a lobbyist.

Example: John Smith is reassigned to a new position in ABC, where he will no longer engage in lobbying on more than four days or parts thereof in a calendar quarter. Within 30 days, Smith must amend the entry under “Expected Duration” on his registration statement to reflect that he no longer lobbies.

10. What Are the Penalties for Failing to Register and Report?

Reports that are not filed by the deadline are subject to late-filing penalties of \$10 per day. Lobbyists who fail to register and report, and persons or entities who employ lobbyists who are required to register but do not, are subject to penalties of up to \$5,000 per violation. The rules implementing the new law state that the Executive Director will not initiate enforcement proceedings against anyone who (1) earns less than \$100 for lobbying in a calendar quarter and (2) registers within five days of being requested to do so by the Executive Director.

