

LD 2169

ERRORS BILL § Supplemental 2

LAW AMENDED: 3 MRSA §317, sub-§4, ¶B
3 MRSA §312-A, sub-§11

General Subject: Lobbying

Type of correction (conflict, reference, other): conflicts

Category (technical, substantive): technical ?

Prepared by: sas

Date: 7/29/20

File name: G:\COMMITTEES\JUD\Errors Bill 2020\Supp 2

EXPLANATION

PL 2019, c. 587 (LD 1867 An Act to Clarify Lobbyist Reporting Requirements and Simplify Registration Requirements for State Employees Who Lobby on Behalf of a State Department or Agency), and PL 2019, c. 599 (LD 1868, An Act to Improve the Reporting of Grassroots Lobbying,) were enacted during the Second Regular Session of the 129th Legislature.

Chapter 587 amended 3 MRSA §317(4)(B) to clarify the circumstances under which a lobbyist is required to file reports with the Commission on Governmental Ethics and Election Practices while the Legislature is out of session. It clarifies that a report is required if the lobbyist or an associate or employer is engaged in indirect lobbying. The term “indirect lobbying” describes communications made to members of the public, encouraging those members to communicate with government officials to influence legislative action. In chapter 599, (but not chapter 587), the term “indirect lobbying was changed to “grassroots lobbying”. This amendment would change the term “indirect lobbying” in 3 MRSA §317(4)(B) to “grassroots lobbying.”

Additionally, under 3 MRSA §312-A(11-A), an “original source” is defined so as to include any person who “contributes” at least \$1,000 a year to the employer of a lobbyist for lobbying purposes. These sources must be included in the lobbyist reports to the Commission. Chapters 587 and 599 both replaced the terms “contributes” and “contributions” within the definition of “original source” with the words “pays” and “payments”. Therefore there is no conflict therein.

However, chapter 599 further amended the definition of “original source” by expanding its scope to include individuals who pay at least \$1,000 a year to a lobbyist or non-lobbyists for the purposes of grassroots lobbying. Because these amendments to the “original source” definition do not appear in chapter 587, there is a conflict. This amendment would more comprehensively define “original source” for the sake of consistency.

Supplemental 2 text

Sec. Supp-2-1. 3 MRSA §312-A, sub-§11-A, as amended by PL 2019, c. 587, §5 and c. 599, §2, is repealed and the following enacted in its place:

11-A. Original source. "Original source" means any person who pays \$1,000 or more in any lobbying year directly or indirectly to any employer of a lobbyist for purposes of lobbying or indirect grassroots lobbying or to any other person for purposes of grassroots lobbying, except that payments of membership dues to nonprofit corporations formed under Title 13-B, under any equivalent state law or by legislative enactment are not considered payments by an original source.

Sec. Supp-2-3. 3 MRSA §317, sub-§4, ¶B as amended by PL 2019, c. 587, §16, is further amended to read:

B. If the lobbyist or lobbyist associate is engaged in lobbying, if the lobbyist, lobbyist associate or employer conducts indirect grassroots lobbying or if the employer makes any expenditures directly to or on behalf of a covered official or a covered official's immediate family member in any of those months, a monthly report in the manner prescribed in subsection 1 even if compensation or reimbursement for expenses has not been received for the month.

Sec. Supp-2-3. Effective date. Those section of this Act that repeal and replace and amend the Maine Revised Statutes, Title 3, section 312-A, subsection 11-A and Title 3, section 317, subsection 4, paragraph B take effect December 1, 2020. *(This is consistent with c. 587 and c. 599)*

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STATE OF MAINE

IN THE YEAR OF OUR LORD

TWO THOUSAND TWENTY

S.P. 639 - L.D. 1867

An Act To Clarify Lobbyist Reporting Requirements and Simplify Registration Requirements for State Employees Who Lobby on Behalf of a State Department or Agency

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 1 MRSA §1015-A, sub-§1, ¶D, as enacted by PL 2019, c. 534, §4, is repealed and the following enacted in its place:

D. "Lobbying firm" has the same meaning as in Title 3, section 312-A, subsection 9-A.

Sec. 2. 3 MRSA §170-B, as amended by PL 2019, c. 41, §1, is further amended to read:

§170-B. Required training regarding harassment

All Legislators, legislative staff and lobbyists and lobbyist associates shall attend and complete a course of in-person education and training regarding harassment, including, but not limited to, sexual harassment and racial harassment, at the beginning of each regular session of the Legislature. The Legislative Council shall develop and implement this course of education and training. For the purpose of this section, "lobbyist" has and "lobbyist associate" have the same meaning meanings as in section 312-A, subsection subsections 10 and 10-A, respectively.

Sec. 3. 3 MRSA §312-A, sub-§8-A, as enacted by PL 2007, c. 630, §5, is amended to read:

8-A. Legislative designee. "Legislative designee" means any employee of a state department or agency who is directed designated by the head of the department or agency as the primary employee to lobby or monitor legislation on behalf of the department or agency or who is reasonably expected to lobby on behalf of the department or agency for more than 10 hours during a legislative session. "Legislative designee" includes an employee who is reasonably expected to lobby or monitor legislation on behalf of the department or agency for more than 20 hours during the session. For the purposes of this

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subsection, "monitoring legislation" means attending legislative hearings and sessions regarding a legislative action.

Sec. 4. 3 MRSA §312-A, sub-§9-A is enacted to read:

9-A. Lobbying firm. "Lobbying firm" means a partnership, corporation, limited liability company or unincorporated association that employs or contracts with more than one lobbyist or lobbyist associate and that receives or is entitled to receive compensation for engaging in lobbying either directly or through its employees.

Sec. 5. 3 MRSA §312-A, sub-§11-A, as amended by PL 2009, c. 282, §2, is further amended to read:

11-A. Original source. "Original source" means any person who ~~contributes or~~ pays \$1,000 or more in any lobbying year directly or indirectly to any employer of a lobbyist for purposes of lobbying or indirect lobbying, except that ~~contributions~~ payments of membership dues to nonprofit corporations formed under Title 13-B, under any equivalent state law or by legislative enactment are not considered ~~contributions~~ payments by an original source.

Sec. 6. 3 MRSA §312-B, as enacted by PL 2017, c. 443, §2, is amended to read:

§312-B. Required training regarding harassment

A lobbyist or lobbyist associate shall complete the training required under section 170-B, retain proof of completion of the training for 2 years following completion and certify completion of that training to the commission at the time of registration under section 313. If completion of the required training prior to registration is not possible due to circumstances that are beyond a lobbyist's or lobbyist associate's control, the commission may provide a limited extension to that lobbyist or lobbyist associate for completion of the training. If a lobbyist or lobbyist associate has a very limited physical presence in the State House and the Burton M. Cross Building, the commission may exempt the lobbyist or lobbyist associate from the requirements of this section.

Sec. 7. 3 MRSA §313, as amended by PL 1999, c. 745, §1, is further amended to read:

§313. Registration of lobbyists, lobbyist associates and employers

~~Every employer of a lobbyist and every lobbyist and lobbyist associate who lobbies on behalf of that employer shall register jointly at the office of~~ A lobbyist shall submit a joint registration for the lobbyist and any lobbyist associates and the employer of that lobbyist with the commission no later than 15 business days after commencement of lobbying more than 8 hours in a calendar month and pay a registration fee of \$200 for the registration of each lobbyist and \$100 for the registration of ~~For each lobbyist associate or such other amounts as the commission determines approximate the cost to the commission of administering and enforcing the provisions of this chapter included in the registration, the lobbyist shall pay an additional \$100 fee.~~

Sec. 8. 3 MRSA §313-A, as amended by PL 2007, c. 630, §9, is further amended to read:

§313-A. Registration of state employees or state agency employees

Within 15 business days of the convening of a regular legislative session, a department or agency shall register with the commission ~~as described in section 316-A~~ those ~~officers or~~ state employees or state agency employees who will serve as the department's or agency's legislative designees for the session by submitting to the commission a list that must include the name and position of each employee, the name of the department or agency and the name of the bureau or division within the department for which each employee works and the mailing address, e-mail address and phone number of each employee. The department or agency shall ~~file an updated registration form later in the session containing~~ notify the commission in writing of any changes of its designees within 15 business days of the change.

An employee who is required to be registered under this section is exempt from all other requirements under the law regarding lobbyists.

Sec. 9. 3 MRSA §316, sub-§3, as amended by PL 1993, c. 446, Pt. A, §13 and affected by §20, is further amended to read:

3. Date. The date upon which lobbying commenced and the date on which the lobbyist exceeded 8 hours of lobbying in a calendar month or was expected to commence a statement that the lobbyist is registering without having reached the 8-hour threshold for registering pursuant to section 313;

Sec. 10. 3 MRSA §316, sub-§4-D, as enacted by PL 2017, c. 443, §4, is amended to read:

4-D. Date of completion or request for extension of or exemption from required harassment training. The date that the lobbyist and each lobbyist associate completed the training required under section 170-B or, if the lobbyist or lobbyist associate has not completed the required training, a statement that the lobbyist or lobbyist associate has requested or is requesting an extension or exemption pursuant to section 312-B; and

Sec. 11. 3 MRSA §316-A, as amended by PL 2015, c. 267, Pt. F, §2, is repealed.

Sec. 12. 3 MRSA §317, first ¶, as repealed and replaced by PL 1993, c. 691, §18, is repealed and the following enacted in its place:

A registered lobbyist shall file a report for each month that the Legislature is in session on forms prescribed or approved by the commission, even if no lobbying has been performed or compensation or reimbursement for expenses received for the month.

Sec. 13. 3 MRSA §317, sub-§1, as amended by PL 2009, c. 282, §§4 and 5, is further amended to read:

1. Monthly session reports. During the period in which the Legislature is in session, ~~every~~ a registered lobbyist shall file with the commission, no later than 11:59

p.m. on the 15th calendar day of each month, a report concerning the lobbyist's activities for the previous month regarding each employer.

~~Every lobbyist shall report that lobbyist's lobbying activities for each month that the Legislature is in session, even if no lobbying has been performed or compensation or reimbursement for expenses received for the month. In the case of a lobbyist representing multiple employers, if no lobbying or services in support of lobbying were performed, one report listing each employer on whose behalf no lobbying was conducted may be submitted.~~ The monthly report must contain the following information:

- A. The month to which the report pertains;
- B. The name and address of the lobbyist and employer;
- C. The names of the individuals who lobbied during the month;
- D. The ~~specific dollar~~ total amount of compensation ~~the lobbyist and lobbyist associates received or expect to receive~~ for lobbying activities, as defined in section 312 A, subsection 9, during the month. The amount of compensation ~~received~~ for lobbying officials in the legislative branch, officials in the executive branch and constitutional officers must be reported separately.

In the case of a lobbyist or lobbyist associate who is a regular employee of the employer, the ~~specific dollar~~ amount of compensation must be computed by multiplying the number of hours devoted to the preparation of documents and research for the primary purpose of influencing legislative action and to lobbying by the employee's regular rate of pay based on a 40-hour week;

- E. The ~~specific dollar~~ total amount of expenditures made or incurred by the lobbyist and lobbyist associates during the month ~~that is the subject of the report~~ for purposes of lobbying as defined in section 312 A, subsection 9 for which ~~the lobbyist has they have been or expects~~ expect to be reimbursed. The amount of expenditures for lobbying officials in the legislative branch, officials in the executive branch and constitutional officers must be reported separately;

E-1. When expenditures for the purposes of indirect lobbying exceed \$15,000 during the month that is the subject of the report, the specific dollar amount of expenditures for indirect lobbying made or incurred during the month by a lobbyist, lobbyist associate or employer, with separate totals for expenditure categories as determined by the commission, the legislative actions that are the subject of the indirect lobbying and a general description of the intended recipients;

- F. The total amount of expenditures by the lobbyist ~~or~~ and lobbyist associates on behalf of the employer for which they have been or expect to be reimbursed and by the employer directly to or on behalf of one or more covered officials, including members of the official's immediate family;

G. For ~~any each~~ each expenditure of money or anything of value made by the lobbyist or employer on behalf of a covered official or a member of the official's immediate family with a total retail value of \$25 or more, the name of the official or family member of \$25 or more reported under paragraph F, the person making the expenditure and the date, amount and purpose of the expenditure and the name of the

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covered official or official's immediate family member on whose behalf the expenditure was made;

G-1. ~~The~~ If the total cost for covered officials and the officials' immediate family members to attend an event paid for by the employer or by the lobbyist, lobbyist associate or lobbying firm on the employer's behalf is \$250 or more, the date and a description of ~~an~~ the event, a list of ~~all officials in the legislative branch or executive branch or members of an official's~~ the names of covered officials and the officials' immediate family members in attendance and the total amount of expenditures for the event, if the total amount of the expenditures for officials and family members is ~~\$250 or more~~ cost for the covered officials and the officials' immediate family members to attend the event;

H. A list of each legislative action by Legislative Document number, specific issue, nomination or other matter in connection with which the lobbyist is engaged in lobbying;

I. A list specifically identifying each legislative action for which the lobbyist ~~was~~ and lobbyist associates were compensated or ~~expects~~ expect to be compensated, or expended in excess of \$1,000 for lobbying activities related to those actions and a statement of the amounts compensated or expended for each; and

J. A list of all of the employer's original sources and a statement of the dollar amounts contributed or paid by the original sources to the employer. If the original source is a corporation formed under Title 13 or 13-C or former Title 13-A, nonprofit corporation formed under Title 13-B or limited partnership under Title 31, the corporation, nonprofit organization or limited partnership, not the individual members or contributors, must be listed as the original source.

Sec. 14. 3 MRSA §317, sub-§1-A is enacted to read:

1-A. Lobbyist expenditure reports. A lobbyist or lobbyist associate who makes an expenditure directly to or on behalf of a covered official or a member of the covered official's immediate family that is not reportable under subsection 1, paragraphs F, G or G-1 shall file a report pursuant to this subsection. If such an expenditure is made by a lobbying firm, a lobbyist or lobbyist associate from that lobbying firm shall report the expenditure.

A. A report under this subsection is required if:

- (1) The total amount of expenditures directly to or on behalf of covered officials and their immediate family members is more than \$300 in a calendar month; and
- (2) The lobbyist or lobbyist associate has not been and does not expect to be reimbursed by any employer.

B. The report must include:

- (1) The date of the expenditure;
- (2) The name and address of the lobbyist, lobbyist associate or lobbying firm;

(3) The amount of the expenditure made or incurred by the lobbyist, lobbyist associate or lobbying firm either directly to or on behalf of a covered official or a covered official's immediate family member;

(4) A description of the goods or services purchased by the lobbyist, lobbyist associate or lobbying firm;

(5) The date and a description and location of an event paid for by the lobbyist, lobbyist associate or lobbying firm at which covered officials and the covered officials' immediate family members were in attendance; and

(6) The names of all covered officials and their immediate family members to whom the expenditures were directly made or on whose behalf the expenditures were made or who attended an event paid for by the lobbyist, lobbyist associate or lobbying firm.

C. A report under this subsection is due no later than 11:59 p.m. on the 15th calendar day of the month following the month in which the expenditure was made or incurred.

Sec. 15. 3 MRSA §317, sub-§4, ¶A, as enacted by PL 1993, c. 446, Pt. A, §14 and affected by §20, is amended to read:

A. With the lobbyist's last monthly report for that regular session a statement that the lobbyist and lobbyist associate will not engage in lobbying activities when the Legislature is not in session. The lobbyist is required to file a monthly report for lobbying activity conducted during a special session; or

Sec. 16. 3 MRSA §317, sub-§4, ¶B, as enacted by PL 1993, c. 446, Pt. A, §14 and affected by §20, is amended to read:

B. If the lobbyist or lobbyist associate is engaged in lobbying, if the lobbyist, lobbyist associate or employer conducts indirect lobbying or if the employer makes any expenditures directly to or on behalf of a covered official or a covered official's immediate family member in any of those months, a monthly report in the manner prescribed in subsection 1 even if compensation or reimbursement for expenses has not been received for the month.

Sec. 17. 3 MRSA §321, sub-§9, as enacted by PL 2017, c. 443, §5, is amended to read:

9. Reject registrations. The commission shall reject registrations that do not include certification of completion of training required under section 170-B or requests for extensions or exemptions pursuant to section 312-B.

→ **Sec. 18. Effective date.** This Act takes effect December 1, 2020.

STATE OF MAINE

IN THE YEAR OF OUR LORD

TWO THOUSAND TWENTY

S.P. 640 - L.D. 1868

An Act To Improve the Reporting of Grassroots Lobbying

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 3 MRSA §312-A, sub-§7-B, as enacted by PL 2009, c. 282, §1, is amended to read:

7-B. ~~Indirect~~ Grassroots lobbying. "Indirect Grassroots lobbying" means to communicate with members of the general public to solicit them to communicate directly with any covered official for the purpose of influencing legislative action, other than legislation that is before the Legislature as a result of a direct initiative in accordance with the Constitution of Maine, Article IV, Part Third, Section 18, when that solicitation is made by:

- A. A broadcast, cable or satellite transmission;
- B. A communication delivered by print media; ~~or~~
- C. A letter or other written communication delivered by mail or by comparable delivery service. ~~E-mail is not considered a letter for the purposes of this paragraph.~~
- D. A communication delivered by e-mail, a website or any other digital format;
- E. Telephone; or
- F. A method of communication similar to those listed in paragraphs A to E.

"Grassroots lobbying" does not include a person communicating with the person's stockholders, employees, board members, officers or dues-paying members.

Sec. 2. 3 MRSA §312-A, sub-§11-A, as amended by PL 2009, c. 282, §2, is further amended to read:

11-A. **Original source.** "Original source" means any person who ~~contributes or~~ pays \$1,000 or more in any lobbying year directly or indirectly to any employer of a lobbyist for purposes of lobbying or ~~indirect~~ grassroots lobbying or to any other person for purposes of grassroots lobbying, except that ~~contributions~~ payments of membership

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dues to nonprofit corporations formed under Title 13-B, under any equivalent state law or by legislative enactment are not considered ~~contributions~~ payments by an original source.

Sec. 3. 3 MRSA §317, sub-§1, ¶E-1, as enacted by PL 2009, c. 282, §4, is amended to read:

E-1. When expenditures made or incurred for the purposes of indirect grassroots lobbying exceed ~~\$15,000~~ \$2,000 during the month that is the subject of the report, the specific dollar amount of expenditures for indirect grassroots lobbying made or incurred during the month by a lobbyist, lobbyist associate or employer, with separate totals for expenditure categories as determined by the commission, and the legislative actions that are the subject of the indirect grassroots lobbying and a general description of the intended recipients. Salaries paid to the employer's regular employees are not expenditures for the purposes of this paragraph and are exempt from disclosure under this paragraph;

Sec. 4. 3 MRSA §317-A is enacted to read:

§317-A. Grassroots lobbying report

Except for a lobbyist filing a monthly report under section 317, subsection 1, paragraph E-1, a person who makes or incurs expenditures in excess of \$2,000 during a calendar month for purposes of grassroots lobbying shall file with the commission a report no later than 11:59 p.m. on the 15th day of the calendar month following the date on which that amount was exceeded. For purposes of this section, expenditures include payments of money made to independent contractors and other vendors to purchase goods and services such as advertising, graphic or website design, video or audio production services, telecommunications services, printing and postage. Salaries paid to the person's employees are not expenditures for the purposes of this section and are exempt from disclosure under this section.

1. Report. A grassroots lobbying report filed pursuant to this section must include:

A. The name of the person required to file the report;

B. The name of an individual serving as the contact for the person;

C. The business address and other contact information for the person;

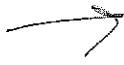
D. A description of the business activity or mission of the person;

E. The specific amount of expenditures for grassroots lobbying made or incurred during the month that is the subject of the report, with separate totals for expenditure categories as determined by the commission;

F. The legislative actions that are the subject of the grassroots lobbying; and

G. A list of all of the person's original sources and a statement of the amount paid by each original source. If an original source is a corporation formed under Title 13 or former Title 13-A, a nonprofit corporation formed under Title 13-B or a limited

partnership under Title 31, the corporation, nonprofit organization or limited partnership, not the individual members, must be listed as the original source.



Sec. 5. Effective date. This Act takes effect December 1, 2020.



Title 3: LEGISLATURE
Chapter 15: LOBBYIST DISCLOSURE PROCEDURES

*C.507
C.599 } not yet effective*

§312-A. Definitions

As used in this chapter, unless the context otherwise indicates, the following words have the following meanings. [PL 1983, c. 160, §1 (NEW).]

1. Campaign fund raising activity. "Campaign fund raising activity" means any event or solicitation by letter or any other means that is held for the purpose of receiving contributions for a political party, political committee, political action committee, candidate for political office in any primary or election, any elected official or a referendum committee.

[PL 1993, c. 446, Pt. A, §1 (AMD); PL 1993, c. 446, Pt. A, §20 (AFF).]

1-A. Campaign contribution. "Campaign contribution" is a contribution, as defined in Title 21-A, section 1012, subsection 2.

[PL 1993, c. 446, Pt. A, §2 (NEW).]

2. Committee. "Committee" means any committee, subcommittee, joint or select committee of the Legislature or any special committee or commission, by whatever name, established by the Legislature to make recommendations for legislative action or to develop legislation.

[PL 1983, c. 160, §1 (NEW).]

2-A. Commission. "Commission" means the Commission on Governmental Ethics and Election Practices as defined in Title 1, chapter 25.

[PL 1993, c. 446, Pt. B, §1 (NEW).]

3. Communicate. "Communicate" means the act of expressing, imparting or conveying information or impressions from one person to another, by either oral or written means.

[PL 1983, c. 160, §1 (NEW).]

4. Compensation. "Compensation" means anything of value that is received or to be received in return for, or in connection with, services rendered or to be rendered.

[PL 1993, c. 446, Pt. A, §3 (AMD).]

4-A. Covered official. "Covered official" means an official in the executive branch, an official in the legislative branch, a constitutional officer, the Governor and the Governor's cabinet and staff.

[PL 2007, c. 630, §1 (NEW).]

4-B. Domestic partner. "Domestic partner" means the partner of an individual who:

A. Is a mentally competent adult as is the individual; [PL 2007, c. 630, §2 (NEW).]

B. Has been legally domiciled with the individual for at least 12 months; [PL 2007, c. 630, §2 (NEW).]

C. Is not legally married to or legally separated from another individual; [PL 2007, c. 630, §2 (NEW).]

D. Is the sole partner of the individual and expects to remain so; and [PL 2007, c. 630, §2 (NEW).]

E. Is jointly responsible with the individual for each other's common welfare as evidenced by joint living arrangements, joint financial arrangements or joint ownership of real or personal property. [PL 2007, c. 630, §2 (NEW).]

[PL 2007, c. 630, §2 (NEW).]

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5. Employer. "Employer" means a person who agrees to reimburse for expenditures or to compensate a person who in return agrees to provide services. Employer includes any political action committee as defined in this section which communicates through or uses the services of a lobbyist to make campaign contributions or to influence in any way the political process.

[PL 1983, c. 160, §1 (NEW) .]

6. Employment. "Employment" means an agreement to provide services in exchange for compensation or reimbursement of expenditures.

[PL 1983, c. 160, §1 (NEW) .]

7. Expenditure. "Expenditure" means anything of value or any contract, promise or agreement to transfer anything of value, whether or not legally enforceable.

A. [PL 1993, c. 691, §4 (RP) .]

B. [PL 2007, c. 630, §3 (RP) .]

C. [PL 2007, c. 630, §3 (RP) .]

[PL 2007, c. 630, §3 (AMD) .]

7-A. Immediate family. "Immediate family" means a person's spouse or domestic partner and dependent children.

[PL 2007, c. 630, §4 (AMD) .]

7-B. Indirect lobbying. "Indirect lobbying" means to communicate with members of the general public to solicit them to communicate directly with any covered official for the purpose of influencing legislative action, other than legislation that is before the Legislature as a result of a direct initiative in accordance with the Constitution of Maine, Article IV, Part Third, Section 18, when that solicitation is made by:

A. A broadcast, cable or satellite transmission; [PL 2009, c. 282, §1 (NEW) .]

B. A communication delivered by print media; or [PL 2009, c. 282, §1 (NEW) .]

C. A letter or other written communication delivered by mail or by comparable delivery service. E-mail is not considered a letter for the purposes of this paragraph. [PL 2009, c. 282, §1 (NEW) .]

[PL 2009, c. 282, §1 (NEW) .]

8. Legislative action. "Legislative action" means the drafting, introduction, consideration, modification, enactment or defeat of any bill, resolution, amendment, report, nomination or other matter by the Legislature, by either the House of Representatives or the Senate, any committee or an official in the Legislative Branch acting in the official's official capacity, or action of the Governor in approving or vetoing any legislative document presented to the Governor for the Governor's approval.

[PL 2019, c. 475, §25 (AMD) .]

8-A. Legislative designee. "Legislative designee" means any employee of a state department or agency who is directed by the head of the department or agency to lobby or monitor legislation on behalf of the department or agency. "Legislative designee" includes an employee who is reasonably expected to lobby or monitor legislation on behalf of the department or agency for more than 20 hours during the session. For the purposes of this subsection, "monitoring legislation" means attending legislative hearings and sessions regarding a legislative action.

[PL 2007, c. 630, §5 (NEW) .]

9. Lobbying. "Lobbying" means to communicate directly with any official in the legislative branch or any official in the executive branch or with a constitutional officer for the purpose of influencing any legislative action or with the Governor or the Governor's cabinet and staff for the purpose of influencing the approval or veto of a legislative action when reimbursement for expenditures or compensation is made for those activities. "Lobbying" includes the time spent to prepare and submit to the Governor, an official in the legislative branch, an official in the executive branch, a constitutional officer or a legislative committee oral and written proposals for, or testimony or analyses concerning, a legislative action. "Lobbying" does not include time spent by any person providing information to or participating in a subcommittee, stakeholder group, task force or other work group

regarding a legislative action by the appointment or at the request of the Governor, a Legislator or legislative committee, a constitutional officer, a state agency commissioner or the chair of a state board or commission.

[PL 2007, c. 630, §6 (AMD).]

10. Lobbyist. "Lobbyist" means any person who is specifically employed by another person for the purpose of and who engages in lobbying in excess of 8 hours in any calendar month, or any individual who, as a regular employee of another person, expends an amount of time in excess of 8 hours in any calendar month in lobbying. "Lobbyist" does not include a lobbyist associate. "Lobbyist" does not include an individual who receives no compensation for lobbying other than reimbursement for lobbying-related travel within the State and reimbursement for other out-of-pocket expenditures made by the individual for printing, postage and food and lodging connected with lobbying activities paid for by the individual. For the purposes of this subsection, "reimbursement for other out-of-pocket expenditures" does not include reimbursement for the individual's time spent lobbying that would have been otherwise compensated by an employer or in the course of the individual's employment.

[PL 2009, c. 234, §1 (AMD).]

10-A. Lobbyist associate. "Lobbyist associate" means an individual who:

A. Is a partner, associate or employee of a lobbyist or is a coemployee of a regular employee of another person if that regular employee is registered as a lobbyist; [PL 1993, c. 691, §6 (NEW).]

B. Lobbies on behalf of the employer named on the lobbyist registration; and [PL 1993, c. 691, §6 (NEW).]

C. Expends more than 8 hours in any calendar month lobbying on behalf of an employer of the lobbyist. [PL 1993, c. 691, §6 (NEW).]

[PL 1993, c. 691, §6 (RPR).]

10-B. Media outlet. "Media outlet" means a radio or television station, a cable television system, newspapers, magazines and other published written materials.

[PL 1993, c. 446, Pt. A, §7 (NEW).]

10-C. Official in the executive branch. "Official in the executive branch" means an individual in a major policy-influencing position in a department or agency listed in section 959 or in Title 5, chapter 71 and the Governor's cabinet and staff. As used in this chapter, "major policy-influencing position" means those positions listed in Title 5, chapter 71 and officers or employees of departments and agencies listed in section 959 and in Title 5, chapter 71 who have policy development as a major function of their positions.

[PL 2007, c. 630, §7 (AMD).]

11. Official in the Legislative Branch. "Official in the Legislative Branch" means a member, member-elect, candidate for or officer of the Legislature or an employee of the Legislature.

[PL 1983, c. 160, §1 (NEW).]

11-A. Original source. "Original source" means any person who contributes or pays \$1,000 or more in any lobbying year directly or indirectly to any employer of a lobbyist for purposes of lobbying or indirect lobbying, except that contributions of membership dues to nonprofit corporations formed under Title 13-B, under any equivalent state law or by legislative enactment are not considered contributions by an original source.

[PL 2009, c. 282, §2 (AMD).]

12. Person. "Person" means an individual, corporation, proprietorship, joint stock company, business trust, syndicate, association, professional association, labor union, firm, partnership, club or other organization, whether profit or nonprofit, or any municipality or quasi-municipality or group of persons acting in concert, but does not include this State or any other agency of this State.

[PL 1993, c. 691, §8 (AMD).]

13. Political Action Committee. "Political Action Committee" includes:

(14)

A. Any separate or segregated fund established by any corporation, membership organization, cooperative or labor organization whose purpose is to influence the outcome of an election, including a candidate or question; and [PL 1983, c. 160, §1 (NEW).]

B. Any person, as defined in subsection 12 which serves as a funding and transfer mechanism and by which moneys are expended to advance, promote, defeat, influence in any way, or initiate a candidate, campaign, political party, referendum or initiated petition in this State. [PL 1983, c. 160, §1 (NEW).]

[PL 1983, c. 160, §1 (NEW).]

14. Reimbursement. "Reimbursement" means anything of value received or to be received as repayment for expenditures.

[PL 1993, c. 446, Pt. A, §9 (AMD).]

14-A. Solicit. "Solicit" means to entreat, implore, urge or ask.

[PL 2009, c. 282, §3 (NEW).]

15. Year. "Year" means a 12-month period starting December 1st and ending the following November 30th.

[PL 1993, c. 446, Pt. A, §9 (AMD).]

16. Anything of value. "Anything of value" means, but is not limited to:

A. Negotiable items:

- (1) Money;
- (2) A bank bill or note;
- (3) A stock, bond, note or other investment interest in an entity;
- (4) A promissory note, bill of exchange, order, draft, warrant, check or bond given for the payment of money;
- (5) An honorarium or compensation for services;
- (6) The granting of a discount or rebate:
 - (a) Not extended to the public generally; or
 - (b) By a media outlet not extended equally to all candidates for the same office; and
- (7) The sale or trade of something for reasonable compensation that is not available ordinarily to a member of the public; [PL 1993, c. 446, Pt. A, §10 (NEW); PL 1993, c. 446, Pt. A, §20 (AFF).]

B. Obligations:

- (1) A contract, agreement, promise or other obligation for an advance, conveyance, forgiveness of indebtedness, deposit, distribution, loan, payment, pledge or transfer of money;
- (2) A receipt given for the payment of money or other property;
- (3) A right in action;
- (4) A promise or offer of employment; and
- (5) An interest in tangible goods or chattel; [PL 1993, c. 446, Pt. A, §10 (NEW); PL 1993, c. 446, Pt. A, §20 (AFF).]

C. Property. The retail or fair market value, whichever is greater, of:

- (1) A work of art, an antique or a collectible;
- (2) An automobile or other means of personal transportation;
- (3) Real property or an interest in real property, including title to realty, a fee simple or partial interest, present or future interest contingent or vested in realty, a leasehold interest or other beneficial interest in realty; and
- (4) Other tangible goods; and [PL 1993, c. 446, Pt. A, §10 (NEW); PL 1993, c. 446, Pt. A, §20 (AFF).]

D. Other goods or services. The retail or fair market value, whichever is greater, of:

- (1) The purchase of tickets for an event such as a reception, rally or fund-raising event;
- (2) A meal or lodging; and
- (3) Any service not extended free of charge to other members of the public. [PL 1993, c. 446, Pt. A, §10 (NEW); PL 1993, c. 446, Pt. A, §20 (AFF).]

[PL 1993, c. 446, Pt. A, §10 (NEW); PL 1993, c. 446, Pt. A, §20 (AFF).]

17. State employee or state agency employee. "State employee or state agency employee" means employees of the executive branch, the judicial branch, the Department of the Attorney General, the Department of Secretary of State, the Department of the Treasurer and any employee who directly or indirectly represents an entity listed in Title 5, chapter 379.

[PL 1993, c. 691, §9 (NEW).]

SECTION HISTORY

PL 1983, c. 160, §2 (NEW). PL 1985, c. 779, §4 (AMD). PL 1987, c. 816, §KK4 (AMD). PL 1987, c. 868, §2 (AMD). PL 1993, c. 446, §§A1-10, B1, 2 (AMD). PL 1993, c. 446, §A20 (AFF). PL 1993, c. 691, §§4-9 (AMD). PL 2007, c. 373, §§1, 2 (AMD). PL 2007, c. 630, §§1-8 (AMD). PL 2009, c. 234, §1 (AMD). PL 2009, c. 282, §§1-3 (AMD). PL 2019, c. 475, §25 (AMD).

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Title 3: LEGISLATURE
Chapter 15: LOBBYIST DISCLOSURE PROCEDURES

§317. Reports

Reports required by this section must be on forms prescribed or approved by the commission. The forms must provide for a sworn statement that the persons signing the report acknowledge the truth and completeness of all the information contained therein. [PL 1993, c. 691, §18 (RPR).]

1. Monthly session reports. During the period in which the Legislature is in session, every registered lobbyist shall file with the commission, no later than 11:59 p.m. on the 15th calendar day of each month, a report concerning the lobbyist's activities for the previous month regarding each employer.

Every lobbyist shall report that lobbyist's lobbying activities for each month that the Legislature is in session, even if no lobbying has been performed or compensation or reimbursement for expenses received for the month. In the case of a lobbyist representing multiple employers, if no lobbying or services in support of lobbying were performed, one report listing each employer on whose behalf no lobbying was conducted may be submitted. The monthly report must contain the following information:

- A. The month to which the report pertains; [PL 1979, c. 632, §2 (RPR).]
- B. The name and address of the lobbyist and employer; [PL 1979, c. 632, §2 (RPR).]
- C. The names of the individuals who lobbied during the month; [PL 1979, c. 632, §2 (RPR).]
- D. The specific dollar amount of compensation received for lobbying activities, as defined in section 312-A, subsection 9, during the month. The amount of compensation received for lobbying officials in the legislative branch, officials in the executive branch and constitutional officers must be reported separately.
 In the case of a regular employee, the specific dollar amount must be computed by multiplying the number of hours devoted to the preparation of documents and research for the primary purpose of influencing legislative action and to lobbying by the employee's regular rate of pay based on a 40-hour week; [PL 2007, c. 630, §14 (AMD).]
- E. The specific dollar amount of expenditures made or incurred by the lobbyist during the month that is the subject of the report for purposes of lobbying as defined in section 312-A, subsection 9 for which the lobbyist has been or expects to be reimbursed. The amount of expenditures for lobbying officials in the legislative branch, officials in the executive branch and constitutional officers must be reported separately; [PL 2007, c. 630, §14 (AMD).]
- E-1. When expenditures for the purposes of indirect lobbying exceed \$15,000 during the month that is the subject of the report, the specific dollar amount of expenditures for indirect lobbying made or incurred during the month by a lobbyist, lobbyist associate or employer, with separate totals for expenditure categories as determined by the commission, the legislative actions that are the subject of the indirect lobbying and a general description of the intended recipients; [PL 2009, c. 282, §4 (NEW).]
- F. The total amount of expenditures by the lobbyist or the employer directly to or on behalf of one or more covered officials, including members of the official's immediate family; [PL 2007, c. 630, §14 (AMD).]
- G. For any expenditure of money or anything of value made by the lobbyist or employer on behalf of a covered official or a member of the official's immediate family with a total retail value of \$25 or more, the name of the official or family member,

(17)

the person making the expenditure and the date, amount and purpose of the expenditure ; [PL 2007, c. 630, §14 (AMD) .]

G-1. The date and a description of an event, a list of all officials in the legislative branch or executive branch or members of an official's immediate family in attendance and the total amount of expenditures for the event, if the total amount of the expenditures for officials and family members is \$250 or more; [PL 2007, c. 373, §5 (AMD) .]

H. A list of each legislative action by Legislative Document number, specific issue, nomination or other matter in connection with which the lobbyist is engaged in lobbying; [PL 2007, c. 630, §14 (AMD) .]

I. A list specifically identifying each legislative action for which the lobbyist was compensated or expects to be compensated, or expended in excess of \$1,000 for lobbying activities related to those actions and a statement of the amounts compensated or expended for each; and [PL 2007, c. 630, §14 (AMD) .]

J. A list of all of the employer's original sources and a statement of the dollar amounts contributed or paid by the original sources to the employer. If the original source is a corporation formed under Title 13 or 13-C or former Title 13-A, nonprofit corporation formed under Title 13-B or limited partnership under Title 31, the corporation, nonprofit organization or limited partnership, not the individual members or contributors, must be listed as the original source. [PL 2009, c. 282, §5 (AMD) .]

[PL 2009, c. 282, §§4, 5 (AMD) .]

2. Annual report.

[PL 2011, c. 179, §5 (RP) .]

2-A. Electronic filing. Beginning January 1, 2006, a lobbyist shall file monthly session reports under subsection 1 through an electronic filing system developed by the commission. The commission may make an exception to this electronic filing requirement if a lobbyist submits a written request that states that the lobbyist lacks access to the technology or the technological ability to file reports electronically. The request for an exception must be submitted at least 10 days prior to the deadline for the first report that the lobbyist is required to file for the lobbying year. The commission shall grant all reasonable requests for exceptions.

[PL 2011, c. 179, §6 (AMD) .]

3. Facsimile copies. The commission may, by rules adopted pursuant to the Maine Administrative Procedure Act, Title 5, chapter 375, establish procedures and fees by which facsimile copies of duly executed reports required by this section may be received and filed with the commission.

[PL 1993, c. 446, Pt. B, §10 (AMD) .]

4. Monthly nonsession reports. When the Legislature is not in regular session, every registered lobbyist must either file:

A. With the lobbyist's last monthly report for that regular session a statement that the lobbyist will not engage in lobbying activities when the Legislature is not in session. The lobbyist is required to file a monthly report for lobbying activity conducted during a special session; or [PL 1993, c. 446, Pt. A, §14 (NEW); PL 1993, c. 446, Pt. A, §20 (AFF) .]

B. If the lobbyist is engaged in lobbying in any of those months, a monthly report in the manner prescribed in subsection 1 even if compensation or reimbursement for expenses has not been received for the month. [PL 1993, c. 446, Pt. A, §14 (NEW); PL 1993, c. 446, Pt. A, §20 (AFF) .]

If the lobbyist did not expect to be engaged in lobbying when the Legislature was not in session, the commission may waive the requirement for the months between the end of the session and the renewal of lobbying.

[PL 1993, c. 691, §21 (AMD) .]

SECTION HISTORY

PL 1975, c. 576 (NEW). PL 1975, c. 621, §2 (RP). PL 1975, c. 724 (REEN). PL 1979, c. 108, §§2,3 (AMD). PL 1979, c. 632, §2 (RPR). PL 1985, c. 737, §A8 (AMD). PL 1987, c. 816, §KK5 (AMD). PL 1987, c. 868, §1 (AMD). PL 1989, c. 732, §1 (AMD). RR 1993, c. 2, §1 (COR). PL 1993, c. 446, §§A14,B7-10 (AMD). PL 1993,

c. 446, §A20 (AFF). PL 1993, c. 691, §§18-21 (AMD). RR 2001, c. 2, §B1 (COR). RR 2001, c. 2, §B58 (AFF). PL 2001, c. 430, §6 (AMD). PL 2005, c. 301, §4 (AMD). PL 2007, c. 373, §§3-5 (AMD). PL 2007, c. 630, §§14, 15 (AMD). PL 2009, c. 282, §§4, 5 (AMD). PL 2011, c. 179, §§5, 6 (AMD).

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STATE OF MAINE
ONE HUNDRED AND TWENTY-NINTH LEGISLATURE
COMMITTEE ON VETERANS AND LEGAL AFFAIRS

MEMORANDUM

TO: Senator Michael Carpenter, Senate Chair
Representative Donna Bailey, House Chair
Joint Standing Committee on Judiciary

FROM: Senator Louie Luchini, Senate Chair ^{LL} ^{JS}
Representative John Schneck, House Chair ^{JS} ^{JS}
Joint Standing Committee on Veterans and Legal Affairs

DATE: April 13, 2020

SUBJECT: Errors bill submission arising from enactment of LD 1867 and LD 1868

As you may recall, during the Second Regular session, the Legislature enacted amended versions of the following two bills related to lobbyist registration, which were heard and worked by our committee:

- LD 1867, An Act To Clarify Lobbyist Reporting Requirements and Simplify Registration Requirements for State Employees Who Lobby on Behalf of a State Department or Agency, which was enacted as P.L. 2019, chapter 587 (attached); and
- LD 1868, An Act To Improve the Reporting of Grassroots Lobbying, which was enacted as P.L. 2019, chapter 599 (attached).

During the work sessions on these bills, we identified one inconsistency and one conflict that would be created if both bills were enacted. Given the distinct nature of the legislative proposals, the committee was reluctant to resolve these issues by combining the two proposals in a single bill. Instead, we agreed to refer these issues to your committee for possible resolution through the Errors bill if, as is the case, both bills were ultimately enacted. Accordingly, we respectfully request that you consider addressing the following two issues in the Errors bill.

1. Inconsistency in use of the terms “indirect lobbying” and “grassroots lobbying”

Section 16 of P.L. 2019, chapter 587, amended 3 M.R.S.A. § 317(4)(B) to clarify the circumstances in which a lobbyist must file a monthly report with the Commission on Governmental Ethics and Election Practices while the Maine Legislature is not in session. Chapter 587 clarifies that a report is required if, for example, the lobbyist or one of the lobbyist’s associates or employers engages in indirect lobbying. Under current law, “indirect lobbying” is the term used to describe communications made to members of the public soliciting those members of the public to communicate with government officials for the

purposes of influencing legislative action. Yet, the term “indirect lobbying” was changed to “grassroots lobbying” through P.L. 2019, chapter 599, § 1.

Accordingly, we request that the amendment to 3 M.R.S.A. § 317(4)(B) in P.L. 2019, chapter 587, § 16 be further amended to replace the term “indirect lobbying” with the new term “grassroots lobbying” (see highlighted change to the text of chapter 587, §16 below):

B. If the lobbyist or lobbyist associate is engaged in lobbying, if the lobbyist, lobbyist associate or employer conducts ~~indirect grassroots~~ lobbying or if the employer makes any expenditures directly to or on behalf of a covered official or a covered official's immediate family member in any of those months, a monthly report in the manner prescribed in subsection 1 even if compensation or reimbursement for expenses has not been received for the month.

2. Conflicting definitions of “original source” in 3 M.R.S.A. § 312-A(11-A)

Under 3 M.R.S.A. §312-A(11-A), an “original source” generally is defined to include any person who “contributes” at least \$1,000 in a year to the employer (*i.e.*, client) of a lobbyist for the purposes of lobbying. A lobbyist who is required to file monthly session reports with the Commission on Governmental Ethics and Election Practices under 3 M.R.S.A. § 317(1) must list in those reports the original sources for each of the lobbyists’ employers as well as the amount each original source paid to the employer.

The words “contributes” and “contributions” were replaced within this definition of “original source” with the words “pays” and “payments” in both P.L. 2019, chapter 587, § 5 and P.L. 2019, chapter 599, § 2 to eliminate any potential confusion whether the definition of “contribution” from Maine’s campaign finance laws applies to the interpretation of this provision. These amendments to the “original source” definition are identical and do not create a conflict.

Section 2 of P.L. 2019, chapter 599 further amended the definition of “original source,” however, by expanding its scope to include individuals who pay at least \$1,000 in a year to a lobbyist for the purposes of grassroots lobbying or to a non-lobbyist for the purposes of grassroots lobbying. As is stated above, “grassroots lobbying” is the new term used in P.L. 2019, chapter 599 to describe the practices referred to as “indirect lobbying” under current law. Because these additional amendments to the “original source” definition do not appear in P.L. 2019, chapter 587, a conflict exists, which we suggest should be resolved by adopting the more comprehensive amendments to the definition of “original source” that appear in chapter 599, § 2:

11-A. Original source. “Original source” means any person who ~~contributes or~~ pays \$1,000 or more in any lobbying year directly or indirectly to any employer of a lobbyist for purposes of lobbying or ~~indirect grassroots~~ lobbying or to any other person for purposes of grassroots lobbying, except that ~~contributions~~ payments of membership dues to nonprofit corporations formed under Title 13-B, under any equivalent state law or by legislative enactment are not considered ~~contributions~~ payments by an original source.

Thank you in advance for considering these requests. Please do not hesitate to contact us or our legislative analyst, Janet Stocco (janet.stocco@legislature.maine.gov), if you have any questions.

cc: Members, Joint Standing Committee on Veterans and Legal Affairs (*via email*)