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COMMITTEE REPORT

April 6, 2011

**H. 3183**

Introduced by Reps. Young, Daning, Harrison, Simrill, G.R. Smith, Stringer, Hamilton, Hixon, Long and D.C. Moss

S. Printed 4/6/11--H. [SEC 4/7/11 3:31 PM]

Read the first time January 11, 2011.

**THE COMMITTEE ON JUDICIARY**

To whom was referred a Bill (H. 3183) to amend Section 2‑17‑20, Code of Laws of South Carolina, 1976, relating to the registration and reregistration of lobbyists, so as to require the payment, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass with amendment:

Amend the bill, as and if amended, Section 8-13-1510 as contained in SECTION 6, page 5, by striking SECTION 6 in its entirety and inserting:

/ SECTION 6. Section 8‑13‑1510 of the 1976 Code, as last amended by Act 76 of 2003, is further amended to read:

“Section 8‑13‑1510. (A) Except as otherwise specifically provided in this chapter, a person required to file a report or statement under this chapter who files a late statement or report or fails to file a required statement or report must be assessed a civil penalty as follows:

(1) a fine of one hundred dollars if the statement or report is not filed within five days after the established deadline provided by law in this chapter; ~~or~~ and

(2) after notice has been given by certified or registered mail that a required statement or report has not been filed, a fine of ten dollars per calendar day for the first ten days after notice has been given, and one hundred dollars for each additional calendar day in which the required statement or report is not filed, not exceeding five thousand dollars.

(B) After the maximum civil penalty has been levied and the required statement or report has not been filed, the person is:

(1) for a first offense, guilty of a misdemeanor triable in magistrates court and, upon conviction, must be fined not more than five hundred dollars or imprisoned not more than thirty days;

(2) for a second offense, guilty of a misdemeanor triable in magistrates court and, upon conviction, must be fined not less than two thousand five hundred dollars nor more than five thousand dollars or imprisoned not less than a mandatory minimum of thirty days;

(3) for a third or subsequent offense, guilty of a misdemeanor triable in magistrates court and, upon conviction, must be fined not more than five thousand dollars or imprisoned for not more than one year, or both.”

Renumber sections to conform.

Amend title to conform.

JAMES H. HARRISON for Committee.

**A** **BILL**

TO AMEND SECTION 2‑17‑20, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE REGISTRATION AND REREGISTRATION OF LOBBYISTS, SO AS TO REQUIRE THE PAYMENT OF ALL OUTSTANDING PENALTIES BEFORE A LOBBYIST MAY RESUME LOBBYING ACTIVITIES; TO AMEND SECTION 2‑17‑25, RELATING TO THE REGISTRATION AND REREGISTRATION OF LOBBYISTS’ PRINCIPALS, SO AS TO REQUIRE THE PAYMENT OF ALL OUTSTANDING PENALTIES BEFORE A LOBBYIST’S PRINCIPAL MAY RESUME LOBBYING ACTIVITIES; TO AMEND SECTION 2‑17‑50, RELATING TO THE AUTHORITY OF THE STATE ETHICS COMMISSION TO ENFORCE FILING REQUIREMENTS AND ASSESS PENALTIES FOR FAILURE TO FILE, SO AS TO CAP CERTAIN FINES AT FIVE THOUSAND DOLLARS, AND TO PROVIDE THAT FIRST AND SECOND OFFENSES MAY BE TRIED IN MAGISTRATES COURT; TO AMEND SECTION 8‑13‑100, RELATING TO THE DEFINITION OF “FAMILY MEMBER” FOR THE PURPOSES OF THE ETHICS, GOVERNMENT ACCOUNTABILITY, AND CAMPAIGN REFORM ACT OF 1991, SO AS TO INCLUDE BROTHERS‑IN‑LAW AND SISTERS‑IN‑LAW; TO AMEND SECTION 8‑13‑700, RELATING TO USE OF ONE’S OFFICIAL POSITION FOR OFFICIAL GAIN, SO AS TO REPLACE CERTAIN REFERENCES TO “IMMEDIATE FAMILY” WITH THE BROADER TERM “FAMILY MEMBER”; AND TO AMEND SECTION 8‑13‑1510, AS AMENDED, RELATING TO PENALTIES FOR EITHER LATE FILING OF OR FAILURE TO FILE A REPORT OR STATEMENT REQUIRED BY CHAPTER 13, TITLE 8, SO AS TO CAP CERTAIN FINES AT FIVE THOUSAND DOLLARS, AND TO PROVIDE THAT FIRST AND SECOND OFFENSES MAY BE TRIED IN MAGISTRATES COURT.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 2‑17‑20(H) of the 1976 Code is amended to read:

“(H) The State Ethics Commission shall not allow a lobbyist to register ~~or~~, reregister, or continue to be registered ~~under~~ pursuant to this section until the lobbyist complies with the reporting requirements ~~under~~ pursuant to Section 2‑17‑30, and pays all late filing penalties in accordance with Section 2‑17‑50 and all complaint fines in accordance with Section 8‑13‑320(10)(1).”

SECTION 2. Section 2‑17‑25(H) of the 1976 Code is amended to read:

“(H) The State Ethics Commission shall not allow a lobbyist’s principal to register ~~or~~, reregister, or continue to be registered ~~under~~ pursuant to this section until the lobbyist’s principal complies with the reporting requirements ~~under~~ pursuant to Section 2‑17‑35, and pays all late filing penalties in accordance with Section 2‑17‑50 and all complaint fines in accordance with Section 8‑13‑320(10)(1).”

SECTION 3. Section 2‑17‑50 of the 1976 Code is amended to read:

“Section 2‑17‑50. (A) The State Ethics Commission shall:

(1) require a person to submit information pursuant to the requirements of this chapter;

(2) in addition to any other penalty in this chapter, require ~~any~~ a person who files a late statement or fails to file a required statement to be assessed a civil penalty as follows:

(a) a fine of one hundred dollars if not filed within ten days after the established deadline provided in this chapter; and

(b) after notice has been given by certified or registered mail ~~by the State Ethics Commission~~ that a required statement has not been filed, a fine of ten dollars ~~a~~ per calendar day ~~for each~~ ~~additional calendar day in which the required statement is not filed, not to exceed a total fine of five hundred dollars~~ for the first ten days after notice has been given, and one hundred dollars for each additional calendar day in which the required statement or report is not filed, not exceeding five thousand dollars.

(B) After the maximum civil penalty has been levied and the requirement statement or report has not been filed, the person is:

(1) for a first offense, guilty of a misdemeanor triable in magistrates court and, upon conviction, must be fined not more than five hundred dollars or imprisoned not more than thirty days;

(2) for a second offense, guilty of a misdemeanor triable in magistrates court and, upon conviction, must be fined not less than two thousand five hundred dollars nor more than five thousand dollars or imprisoned not less than a mandatory minimum of thirty days;

(3) for a third or subsequent offense, guilty of a misdemeanor and must be fined not more than five thousand dollars or imprisoned for not more than one year, or both.

(C) Filing of the required report and payment of the fine within twenty days of notice by the State Ethics Commission that a required statement has not been filed constitutes compliance with this chapter.

~~(C)~~(D) Payment of the fine without filing the required report does not in any way excuse or exempt ~~any~~ a person required to file from the filing requirements of this chapter.”

SECTION 4. Section 8‑13‑100(15) of the 1976 Code, as added by Act 248 of 1991, is amended to read:

“(15) ‘Family member’ means an individual who is:

(a) the spouse, parent, brother, sister, child, mother‑in‑law, father‑in‑law, son‑in‑law, daughter‑in‑law, brother‑in‑law, sister‑in‑law, grandparent, or grandchild;

(b) a member of the individual’s immediate family.”

SECTION 5. Section 8‑13‑700(A) and (B) of the 1976 Code, as added by Act 248 of 1991, is amended to read:

“(A) No public official, public member, or public employee may knowingly use his official office, membership, or employment to obtain an economic interest for himself, a family member ~~of his immediate family~~, an individual with whom he is associated, or a business with which he is associated. This prohibition does not extend to the incidental use of public materials, personnel, or equipment, subject to or available for a public official’s, public member’s, or public employee’s use ~~which~~ that does not result in additional public expense.

(B) No public official, public member, or public employee may make, participate in making, or in any way attempt to use his office, membership, or employment to influence a governmental decision in which he, a family member ~~of his immediate family~~, an individual with whom he is associated, or a business with which he is associated has an economic interest. A public official, public member, or public employee who, in the discharge of his official responsibilities, is required to take an action or make a decision which affects an economic interest of himself, a family member ~~of his immediate family~~, an individual with whom he is associated, or a business with which he is associated shall:

(1) prepare a written statement describing the matter requiring action or decisions and the nature of his potential conflict of interest with respect to the action or decision;

(2) if the public official is a member of the General Assembly, he shall deliver a copy of the statement to the presiding officer of the appropriate house. The presiding officer shall have the statement printed in the appropriate journal and require that the member of the General Assembly be excused from votes, deliberations, and other action on the matter on which a potential conflict exists;

(3) if he is a public employee, he shall furnish a copy of the statement to his superior, if any, who shall assign the matter to another employee who does not have a potential conflict of interest. If he has no immediate superior, he shall take the action prescribed by the State Ethics Commission;

(4) if he is a public official, other than a member of the General Assembly, he shall furnish a copy of the statement to the presiding officer of the governing body of ~~any~~ an agency, commission, board, or of ~~any~~ a county, municipality, or a political subdivision thereof, on which he serves, who shall cause the statement to be printed in the minutes and require that the member be excused from any votes, deliberations, and other actions on the matter on which the potential conflict of interest exists and shall cause the disqualification and the reasons for it to be noted in the minutes;

(5) if he is a public member, he shall furnish a copy to the presiding officer of ~~any~~ an agency, commission, board, or of ~~any~~ a county, municipality, or a political subdivision thereof, on which he serves, who shall cause the statement to be printed in the minutes and shall require that the member be excused from any votes, deliberations, and other actions on the matter on which the potential conflict of interest exists and shall cause such disqualification and the reasons for it to be noted in the minutes.”

SECTION 6. Section 8‑13‑1510 of the 1976 Code, as last amended by Act 76 of 2003, is further amended to read:

“Section 8‑13‑1510. (A) Except as otherwise specifically provided in this chapter, a person required to file a report or statement under this chapter who files a late statement or report or fails to file a required statement or report must be assessed a civil penalty as follows:

(1) a fine of one hundred dollars if the statement or report is not filed within five days after the established deadline provided by law in this chapter; ~~or~~ and

(2) after notice has been given by certified or registered mail that a required statement or report has not been filed, a fine of ten dollars per calendar day for the first ten days after notice has been given, and one hundred dollars for each additional calendar day in which the required statement or report is not filed, not exceeding five thousand dollars.

(B) After the maximum civil penalty has been levied and the required statement or report has not been filed, the person is:

(1) for a first offense, guilty of a misdemeanor triable in magistrates court and, upon conviction, must be fined not more than five hundred dollars or imprisoned not more than thirty days;

(2) for a second offense, guilty of a misdemeanor triable in magistrates court and, upon conviction, must be fined not less than two thousand five hundred dollars nor more than five thousand dollars or imprisoned not less than a mandatory minimum of thirty days;

(3) for a third or subsequent offense, guilty of a misdemeanor and must be fined not more than five thousand dollars or imprisoned for not more than one year, or both.”

SECTION 7. This act takes effect upon approval by the Governor.

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