


THIRTEENTH CONGRESS OF THE REPUBLIC)
OF THE PHILIPPINES)
First Regular Session)

04 AUG 11 P4:14

SENATE
S.B. No. 1716

RECEIVED BY 


Introduced by Senator Miriam Defensor Santiago

EXPLANATORY NOTE

R.A. No. 1827, passed in 1957, regulates lobbying in Congress and in the Commission on Appointments only. E.O. 292, also known as the Administrative Code of 1987, Book V, Title I, Subtitle A, Chapter 7 subjects civil service officers and employees to disciplinary action when found guilty of lobbying.

These laws have not curtailed efforts of highly paid lobbyists to influence the decision-making process in both the executive and legislative branches. This is due to the ambiguous statutory language, weak administrative and enforcement provisions, and the absence of clear rules on lobbying.

This bill provides for registration of lobbyists, submission of semi-annual reports by registered lobbyists, enforcement of mechanisms, penalties, and tax deductions for bona fide lobbying expenses.


MIRIAM DEFENSOR SANTIAGO

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AN ACT
PROVIDING FOR DISCLOSURE OF LOBBYING ACTIVITIES TO INFLUENCE THE
GOVERNMENT

Be it enacted by the Senate and the House of Representatives of the Philippines in Congress assembled:

SECTION 1. *Short Title.* — This Act shall be known as the “Lobbying Disclosure Act.”

SECTION 2. *Declaration of Policy.* — It is the policy of the State to implement full disclosure of all of its transactions involving public interest for the purpose of maintaining honesty and integrity in the public service. Towards this end, the State shall take positive and effective measures against graft and corruption.

SECTION 3. *Definitions.* — For purposes of this Act:

(1) “Agency of the Government” refers to any of the various units of the Government, including a department, bureau, office, instrumentality, or government-owned or controlled corporation;

(2) “Client” means any person or entity that employs or retains another person for financial or other compensation to conduct lobbying activities on behalf of that person or entity. A person or entity whose employees act as lobbyists on its own behalf is both a client and an employer of such employees. In the case of a coalition or association that employs or retains other persons to conduct lobbying activities, the client is the coalition or association and not its individual members.

(3) “Covered executive branch official” means (A) the President; (B) the Vice-President; (C) any officer or employee, or any other individual functioning in the capacity of such an officer or employee in the Executive Office of the President; (D) any member of the uniformed

services of such grade or level as specified by law; and (E) any officer or employee serving in a position of confidential, policy-determining, policy-making, or policy-advocating character as described by law.

(4) "Covered legislative branch official" means (A) a Member of Congress; (B) an elected officer of either House of Congress; (C) any employee of, or any other individual functioning in the capacity of an employee of (i) a Member of Congress; (ii) a committee of either House of Congress; (iii) the leadership staff of the House of Representatives or the leadership staff of the Senate; (iv) a joint committee of Congress; and (v) a working group or caucus organized to provide legislative services or other assistance to Members of Congress; and (D) any other legislative branch employee serving in a position of a confidential, policy-determining, policy-making, or policy-advocating character described by law.

(5) "Employee" is any individual who is an officer, employee, director or proprietor of a person or entity, but does not include (A) independent contractors; or (B) volunteers who receive no financial or other compensation from the person or entity for their services.

(6) "Foreign Entity"- a foreign principal including - (A) a government of a foreign country and a foreign political party; (B) a person outside of the Philippines, unless it is established that such person is an individual and a citizen domiciled within the Philippines, or that such person is not an individual and is organized under or created by the laws of the Philippines or of any of its territorial divisions or any other place subject to the jurisdiction of the Philippines and has its principal place of business within the Philippines; and (C) a partnership, association, corporation, organization, or other combination of persons organized under the laws of or having its principal place of business in a foreign country.

(7) "Lobbying Activities" means lobbying contacts and efforts in support of such contacts, including preparation and planning activities, research, and other background work that is intended, at the time it is performed, for use in contacts, and coordination with the lobbying activities of others.

(8) "Lobbying contact" - (A) In General - is any oral or written communication (including an electronic communication) to a covered executive branch official or a covered legislative branch official that is made on behalf of a client with regard to -

(i) the formulation, modification, or adoption of legislation (including legislative proposals);

(ii) the formulation, modification, or adoption of a rule, regulation, executive order, or any other program, policy or position of the Philippine Government;

(iii) the administration or execution of a program or policy (including the negotiation, award or administration of a contract, grant, loan, permit or license); or

(iv) the nomination or confirmation of a person for a position subject to confirmation by the Senate.

(B) Exceptions - "lobbying contact" does not include a communication that is-

(i) made by a public official acting in the public official's official capacity;

(ii) made by a representative of a media organization if the purpose of the communication is gathering and disseminating news and information to the public;

(iii) made in a speech, article, publication, or other material that is distributed and made available to the public, or through radio, television, cable television, or other medium of mass communication;

(iv) made on behalf of a government of a foreign country or a foreign political party which fact is disclosed;

(v) a request for a meeting, a request for a status of an action, or any other similar administrative request, if the request does not include any attempt to influence a covered executive branch official or a covered legislative branch official;

(vi) made in the course of participation in an advisory committee to a covered executive or legislative official;

(vii) testimony given before a committee, subcommittee, or task force of the Congress, or submitted for inclusion in the public record of a hearing conducted by such committee, subcommittee, or task force;

(viii) information provided in writing in response to an oral or written request by a covered executive branch official or a covered legislative branch official for specific information;

(ix) required by subpoena or otherwise compelled by law, regulation, or other action of the Congress or an agency;

(x) made in response to a notice in a government publication or any other similar publication soliciting communications from the public and directed to the agency official specifically designated in the notice to receive such communications;

(xi) not possible to report without disclosing information, the unauthorized disclosure of which is prohibited by law;

(xii) made to an official in an agency with regard to – (a) a judicial proceeding or a criminal or civil law enforcement inquiry, investigation, or proceeding; or (b) a filing or proceeding that the government is specifically required by law or regulation to maintain or conduct on a confidential basis, if that agency is charged with responsibility for such proceeding, inquiry, investigation, or filing;

(xiii) made in compliance with written agency procedures regarding an adjudication or hearing conducted by the agency;

(xiv) a written comment filed in the course of a public proceeding or any other communication that is made on the record in a public proceeding;

(xv) a petition for agency action made in writing and required to be a matter of public record pursuant to established agency procedures;

(xvi) made on behalf of an individual with regard to that individual's benefits, employment, or other personal matters involving only that individual, except that this clause does not apply to any communication with (a) a covered executive branch official; or (b) a covered legislative branch official (other than the individual's elected Members of Congress, or employees who work under such members' direct supervisions), with respect to the formulation, modification, or adoption of private legislation for the relief of that individual;

(xvii) a disclosure by an individual that is protected under provision of law; made by (a) a church, is integrated auxiliary, or a convention or association of churches that is exempt from filing an income tax return in accordance with the provisions of the Internal Revenue Code; or (b) a religious order that is exempt from filing an income tax return in

accordance with the provisions of the Internal Revenue Code; and between—(c) officials of a self-regulatory organization registered with, or established by, the Securities and Exchange Commission or established by law; (d) the Securities and Exchange Commission and any other self-regulatory organization established by law as regards its regulatory responsibilities.

(9) “Lobbying firm” means a person or entity that has one (1) or more employees who are lobbyists on behalf of a client other than that person or entity. The term also includes a self-employed individual who is a lobbyist.

(10) Lobbyist – any individual who is employed or retained by a client for financial or other compensation or services that include more than one (1) lobbying contact, other than an individual whose lobbying activities constitute less than twenty percent (20%) of the time engaged in the services provided by such individual to that client over a six (6) month period.

(11) Media Organization – a person or entity engaged in disseminating information to the general public through a newspaper, magazine, other publication, radio, television, cable television, or other medium of mass communication.

(12) Member of Congress – a Senator or a Representative in the House of Representatives.

(13) Organization – person or entity other than an individual.

(14) Person or Entity – any individual, corporation, company, foundation, association, labor organization, firm, partnership, society, joint stock company, group of organizations, or local government.

(15) Public Official – any elected official, appointed official, or employee of the national government or a local government unit other than (A) a college or university; (B) a government owned or controlled corporation; (C) an organization of elected or appointed officials of the national government or local government units; (D) a national, regional, or local unit of any foreign government.

SECTION 4. *Registration of Lobbyist.* —

(1) Registration

(A) General rule – Not later than forty-five (45) days after a lobbyist first make a lobbying contact, or is employed or retained to make a lobbying contact, whichever is earlier, such lobbyist or the organization employing such lobbyist, shall register with the Secretary of the Senate and the Secretary-General of the House of Representatives.

(B) Employer filing – Any organization that has one (1) or more employees who are lobbyists shall file a single registration under this section on behalf of such employees for each client on whose behalf the employees act as lobbyist.

(2) Exemption —

(A) General rule – Notwithstanding paragraphs (A) and (B), a person or entity whose -

(i) total income for matters related to lobbying activities on behalf of a particular client (in the case of a lobbying firm) does not exceed and is not expected to exceed Five Thousand Pesos (P5,000.00); or

(ii) total expenses in connection with lobbying activities (in case of an organization whose employees engage in lobbying activities on its own behalf) do not exceed or are not expected to exceed Twenty Thousand Pesos (P20,000.00) (as estimated under Section 5 in the semi-annual period described in Section 5(1) during which the registration would be made is not required to register under subsection (1) with respect to such client.

(B) Adjustment – The amounts in subparagraph (A)(i) shall be adjusted by Congress to reflect changes in the Consumer Price Index as determined by the proper government agency.

(C) Contents of Registration – Each registration under this section shall contain

(i) the name, address, business telephone number, and principal place of business of the registrant, and a general description of its business or activities;

(ii) the name, address, and principal place of business of the registrant's client, and a general description of its business or activities (if different from paragraph (i));

(iii) the name, address, and principal place of business of any organization, other than the client, that —

(aa) contributes more than Ten Thousand Pesos (P10,000.00) toward the lobbying activities of the registrant in a semi-annual period described in section 5(1); and

(b) in whole or in major part plans, supervises, or controls such lobbying activities.

(D) the name, address, principal place of business, amount of any contribution of more than Ten Thousand pesos (P10,000.00) to the lobbying activities of the registrant, and approximate percentage of equitable ownership in the client (if any) of any foreign entity that —

(i) holds at least twenty percent (20%) equitable ownership in the client or any organization identified under subsection (3);

(ii) directly or indirectly, in whole or in major part, plans, supervises, controls, directs, finances; or subsidizes the activities of the client or any organization identified under subsection (3); or

(iii) is an affiliate of the client or any organization identified under subsection (3) and has a direct interest in the outcome of the lobbying activity;

(a) the general issue areas in which the registrant expects to engage in lobbying activities on behalf of the client; and

(b) to the extent practicable, specific issues that have (as of the date of the registration) already been addressed or are likely to be addressed in lobbying activities; and

(c) the name of each employee of the registrant who has acted or whom the registrant expects to act as a lobbyist on behalf of the client and, if any such employee has served as a covered legislative branch official in the two (2) years before the date on which such employee first acted (after the date of enactment of this Act) as a lobbyist on behalf of the client, the position in which such employee served.

(3) Guidelines for Registration -

(A) Multiple clients – In the case of a registrant making lobbying contacts on behalf of more than one (1) client, a separate registration under this section shall be filed for each such client.

(B) Multiple contacts – In the case of a registrant making lobbying contacts on behalf of more than one (1) client, a separate registration under this section shall be filed for each such client.

(4) Termination of Registration - A registrant who after registration -

(A) is no longer employed or retained by a client to conduct lobbying activities; and

(B) does not anticipate any additional lobbying activities for such client, may so notify the Secretary of the Senate and the Secretary-General of the House of Representatives and determine its registration.

SECTION 5. *Reports by Registered Lobbyists.* -

(1) Semi-annual Report - Not later than forty-five (45) days after the end of the semi-annual period beginning on the first day of January and the first day of July of each year in which a registrant is registered under Section 4, each registrant shall file a report with the Secretaries of the Senate and the House of Representatives on its lobbying activities during such semi-annual period.

A separate report shall be filed for each client of the registrant.

(2) Contents of Report - Each semi-annual report filed under subsection (1) shall contain-

(A) the name of the registrant, the name of the client, and any changes or updates to the information provided in the initial registration;

(B) for each general issue area in which the registrant engaged in lobbying activities on behalf of the client during the semiannual filing period -

(i) a list of the specific issues upon which a lobbyist employed by the registrant engaged in lobbying activities, including, to the maximum extent

practicable, a list of bill numbers and references to specific executive branch actions;

(ii) a statement of the Houses of Congress and the agencies contacted by lobbyists employed by the registrant on behalf of the client;

(iii) a list of the employees of the registrant who acted as lobbyists on behalf of the client; and

(iv) a description of the interest, if any, of the foreign entity identified under Section 4(2)(D) in the specific issues listed under subparagraph (i).

(C) in the case of a lobbying firm, a good faith estimate of the total amount of all income from the client (including any payments to the registrant by any other person for lobbying activities on behalf of the client) during the semi-annual period, other than income for matters that are unrelated to lobbying activities; and

(D) in the case of a registrant engaged in lobbying activities on its own behalf, a good faith estimate of the total expenses that the registrant and its employees incurred in connection with lobbying activities during the semi-annual filing period.

(3) *Estimates of Income or Expenses - For purposes of this Section, estimates of income or expenses shall be made as follows:*

(A) Estimates of amounts in excess of Ten Thousand Pesos (P10,000.00) shall be rounded to the nearest Twenty Thousand Pesos (P20,000.00);

(B) In the event income or expenses do not exceed Ten Thousand Pesos (P10,000.00), the registrant shall include a statement that income or expenses totaled less than Ten Thousand Pesos (P10,000.00) for the reporting period.

(c) A registrant that reports lobbying expenditures pursuant to rules and regulations of the Bureau of Internal Revenue may satisfy the requirement to report income or expenses by filing with the Secretary of the Senate and the Secretary General of the House of Representatives a copy of the form filed in accordance with said rules and regulations.

SECTION 6. *Disclosure and Enforcement.* - The Secretary of the Senate and the Secretary General of the House of Representatives shall -

(1) provide guidance and assistance on the registration and reporting requirements of this Act and develop common standards, rules, and procedures for compliance with this Act;

(2) review, and, where necessary, verify and inquire to ensure the accuracy, completeness, and timeliness of registration and reports;

(3) develop filing, coding, and cross-indexing systems to carry out the purpose of this Act, including -

(A) a publicly available list of all registered lobbyists, lobbying firms, and their clients; and

(B) a computerized system designed to minimize the burden of filing and maximize public access to materials filed under this Act;

(4) make available for public inspection and copying at reasonable times the registration and reports filed under this Act;

(5) retain registrations for a period of at least six (6) years after they are terminated and reports for a period of at least six (6) years after they are filed;

(6) compile and summarize, with respect to each semi-annual period, the information contained in registrations and reports filed with respect to such period in a clear and complete manner;

(7) notify any lobbyist or lobbying firm in writing that may be noncompliance with this Act; and

(8) notify the Secretary of Justice that a lobbyist or lobbying firm may be in non-compliance with this Act, if the registrant has been notified in writing and has failed to provide an appropriate response within sixty (60) days after notice was given under subsection(6).

SECTION 7. *Penalties.* - Whoever knowingly fails to -

(1) remedy a defective filing within sixty (60) days after notice of such a defect by the Secretary of the Senate or the Secretary General of the House of Representatives; or

(2) comply with any other provision of this Act; shall, upon proof of such knowing violation by a preponderance of the evidence, be subject to a civil fine of not more than Fifty Thousand Pesos (P50,000.00), depending on the extent and gravity of the violation.

SECTION 8. *Rules of Construction.* (1) Constitutional Rights - Nothing in this Act shall be construed to prohibit or interfere with -

(A) the right to petition the government for the redress of grievances;

(B) the right to express a personal opinion;

(C) the right of association;

(2) Prohibition of Activities - Nothing in this Act shall be construed to prohibit, or to authorize any court to prohibit, lobbying activities or lobbying contacts by any person, or entity, regardless of whether such person, or entity is in compliance with the requirements of this Act.

(3) Audit and Investigation - Nothing in this Act shall be construed to grant general audit or investigative authority to the Secretary of the Senate or the Secretary General of the House of Representatives.

SECTION 9. *Identification of Clients and Covered Officials.* -

(1) Oral Lobbying Contracts - Any person or entity that makes an oral lobbying contact with a covered legislative branch official or a covered executive branch official shall, on the request of the official at the time of the lobbying contact -

(A) state whether the person or entity is registered under this Act and identify the client on whose behalf the lobbying contact is made; and

(B) state whether such client is a foreign entity and identify any foreign entity required to be disclosed under Section 4(2)(D) that has a direct interest in the outcome of the lobbying activity.

(2) Written Lobbying Contacts - Any person or entity registered under this Act that makes a written lobbying contact (including an electronic communication) with a covered legislative branch official or a covered executive branch official shall -

(A) if the client on whose behalf the lobbying contact was made is a foreign entity, identify such client, state that the client is considered a foreign entity under this Act, and state whether the person making the lobbying contact is registered on behalf of that client under Section 4; and

(B) identify any other foreign entity identified pursuant to section 4(2) (D) that has a direct interest in the outcome of the lobbying activity.

(3) Identification as Covered Official - Upon request by a person or entity making a lobbying contact, the individual who is contacted or the office employing that individual shall indicate whether or not the individual is a covered executive branch official.

SECTION 10. *Lobbying Expenses Deductible.* - Lobbying expenses of individual taxpayers shall be tax deductible except for individual taxpayers.

SECTION 11. *Separability Clause.* - If any provision, or part hereof, is held invalid or unconstitutional, the remainder of the law or the provision not otherwise affected shall remain valid and subsisting.

SECTION 12. *Repealing Clause.* - Any law, presidential decree or issuance, executive order, letter of instruction, administrative order, rule or regulation contrary to or inconsistent with, the provisions of this Act is hereby repealed, modified, or amended accordingly.

SECTION 13. *Effectivity Clause.* - This Act shall take effect fifteen (15) days after its publication in at least two (2) newspapers of general circulation.

Approved,