

RHODE ISLAND GOVERNMENT REGISTER
PUBLIC NOTICE OF PROPOSED RULEMAKING

AGENCY: Rhode Island Department of State

DIVISION: Public Information Division

RULE IDENTIFIER: ERLID 3228, effected rule ERILD 3381

REGULATION TITLE: Rules and Regulations in Connection with Legislative Lobbying Activities

RULEMAKING ACTION: Proposed Rulemaking

TYPE OF FILING: Repeal

DATES: Public notice date: October 28, 2016

End of comment period date: November 27, 2016

Hearing date: November 9, 2016, 10:00 am – 12:00 pm Room 313, State House,
Providence, RI 02903

SUMMARY OF PROPOSED RULE: This rule is being considered for repeal. Effective January 1, 2017 the authorizing statute will be repealed.

COMMENTS INVITED:

All interested parties are invited to submit written or oral comments concerning the proposed regulations by November 27, 2016 to the addresses listed below.

ADDRESSES FOR PUBLIC COMMENT SUBMISSIONS:

Stacy DiCola
Public Information Division
82 Smith Street
State House, Room 38
Providence, RI 02903

Email Address:

sdicola@sos.ri.gov

PUBLIC HEARING INFORMATION:

The place of the public hearing is accessible to individuals who are handicapped. If communication assistance (readers/ interpreters/captioners) is needed, or any other accommodation to ensure equal participation, please call 401-222-3983 or RI Relay 711 at least three (3) business days prior to the meeting so arrangements can be made to provide such assistance at no cost to the person requesting.

ALTERNATIVE PUBLIC HEARING TEXT:

In accordance with RIGL §42-35-2.8, an oral hearing will be granted if requested by twenty-five (25) persons, by an agency or by an association having at least twenty-five (25) members. A request for an oral hearing must be made within thirty (30) days of this notice.

FOR FUTHER INFORMATION CONTACT:

Stacy DiCola
Public Information Division
Rhode Island Department of State
82 Smith Street
State House, Room 38
Providence, RI 02903
401-222-3983
sdicola@sos.ri.gov

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking: §22-10-1 *et seq*

Regulatory Findings:

In the development of the proposed adoption consideration was given to: (1) alternative approaches; (2) overlap or duplication with other statutory and regulatory provisions; and (3) significant economic impact on small business. No alternative approach, duplication, or overlap was identified based upon available information.

The Proposed Amendment:

Rhode Island Department State proposes to repeal (Kate Telford will insert RICR/3228) as follows:

~~RULES AND REGULATIONS
ADOPTED BY THE OFFICE OF THE
SECRETARY OF STATE IN CONNECTION WITH
LEGISLATIVE LOBBYING ACTIVITIES AND THE ROLE
OF THE SECRETARY IN CONJUNCTION WITH
AND PURSUANT TO TITLE 22 CHAPTER 10
OF THE RHODE ISLAND
GENERAL LAWS OF 1956, AS AMENDED~~

~~Promulgated by
Matthew A. Brown
Secretary of State~~

~~RULES AND REGULATIONS ADOPTED
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THE RHODE ISLAND
GENERAL LAWS OF 1956, AS AMENDED~~

~~The Secretary of State has promulgated the within rules and regulations relative to lobbying activity pursuant to and in accordance with the provisions of § 22-10-10 of the Rhode Island General Laws of 1956, as amended.~~

~~Said rules and regulations are established pursuant to the Administrative Procedures Act (R.I. Gen. Laws § 42-35-1 et al.) and are available for public inspection, submission, or request at the Office of the Secretary of State, Administrative Records Division, 337 Westminster Street, Providence, Rhode Island. If any part of these rules and regulations is found to be in conflict with any applicable law, such part shall be inoperative, null, and void insofar as it is in conflict with said law, but the remainder of these rules and regulations shall be in full force and effect.~~

~~In order for the Secretary of State to properly provide for and implement the provisions of R.I. Gen. Laws § 22-10, the following rules and regulations shall apply with respect to legislative branch lobbying activity and related action in the State of Rhode Island:~~

~~General Assembly Lobbying Activity~~

~~**1. Declaration of intent.**—The preservation of responsible government requires that the fullest opportunity be afforded to the people of the state to petition their government for the redress of grievances and to express freely to individual legislators and to committees of the legislature their opinion on legislation and current issues. Public confidence in the integrity of the legislative process is strengthened by the identification of persons and groups who on behalf of private interests seek to influence the content, introduction, passage, or defeat of legislation and by the disclosure of funds expended in that effort.~~

~~**2. Definitions.**—For the purpose of the regulations established hereby, terms shall have those meaning ascribed by R.I. Gen. Laws §§ 22-10-2 and 22-10-10, and further, the following definitions shall also apply hereto:~~

- ~~(a.) The phrase "business entity" as used herein shall mean any "person" (individual, firm, business, corporation, association, partnership, or other group) that is not a natural person.~~
- ~~(b.) The term "expenditures" as used herein shall include all payments made by a lobbyist to a business entity which is owned, in whole or in part, by a legislative or executive official, such ownership interest being at least a ten percent (10%) or greater equity interest or five thousand dollar (\$5,000) or greater cash value interest, as indicated in the annual disclosure filed by public officials with the state ethics commission pursuant to R.I. Gen. Laws Chapter 36-14, and in particular §§ 36-14-16, 17 and 18.~~
- ~~(c.) The term "lobbying firm" refers to a business entity that receives compensation for lobbying activity.~~
- ~~(d.) The term "lobbyist" shall include persons who engage in lobbying activity as the appointed representative of another person. The term "person" is defined in the statute at R.I. Gen. Laws § 22-10-2(5) as an "individual, firm, business, corporation, association, partnership, or other group." Therefore, the term "lobbyist" includes both lobbying firms and the employees and agents of lobbying firms who engage in lobbying activity.~~
- ~~(e.) The term "original" refers to documents possessing original signatures, including, as applicable, electronic documents.~~
- ~~(f.) The term "person" is defined in the statute at R.I. Gen. Laws § 22-10-2(5) as an "individual, firm, business, corporation, association, partnership, or other group." Therefore, in these regulations the use of the word "person", unless it is used in the phrase "natural person", means both a natural person and each of those listed entities. The term "person" has been placed in quotes throughout the regulations and is followed by the defined list of entities in order to emphasize this usage.~~
- ~~(g.) The term "residence" as used herein shall mean the city or town, state, and (if not within the United States) the country in which a natural person primarily resides.~~
- ~~(h.) The phrase "time and/or date stamped" refers to the applicable marking, whether through physical or electronic means, of receipt imparted to a document by the Office of the Secretary of State.~~
- ~~(i.) The term "violation" refers to any individual act or item of non-compliance with the provisions of R.I. Gen. Laws § 22-10 or any of the rules and regulations established~~

thereunder.

~~3. — **Exemptions.** — R.I. Gen. Laws § 22-10-3 specifically provides for certain exemptions.~~

~~4. — **Lobbyists — Limited activity / Governmental Employees.** — For the purposes of this section, agents and employees of public corporations and quasi-public corporations shall not be considered state or local employees.~~

~~5. — **Register — Information shown — Public records.** — (a) The register of lobbyists required under R.I. Gen. Laws § 22-10-5 shall be made available to the public for review on-line. The Secretary shall not include the residential street address of natural persons who are lobbyists in the register.~~

~~(b.) All reports or filings required pursuant to R.I. Gen. Laws § 22-10 shall be filed upon electronic forms issued by the Secretary of State and submitted through an on-line interface. Paper copies of documents will not be accepted without approval of the Secretary of State or his or her designee, and such approval shall only be granted under circumstances in which the general public is not able to file on-line. No alterations to the forms referenced herein shall be permitted without prior consent by the Secretary of State, Public Information Division. Any filing which does not conform to this requirement shall be returned to the filing party prior to acceptance by the Office of the Secretary of State, Public Information Division.~~

~~(c.) No report or other filing shall be time and/or date stamped as accepted until filed in its proper form as determined by the Public Information Division of the Office of the Secretary of State.~~

~~6. — **Entry of names of lobbyists on register required.** — In accordance with the statutory scheme set forth by the General Assembly of the State of Rhode Island, the initial registration form of the lobbyist and the "person" (individual, firm, business, corporation, association, partnership, or other group) engaging the lobbyist must be filed with the Public Information Division of the Office of the Secretary of State. No "person" (individual, firm, business, corporation, association, partnership, or other group) will be unlawfully registered lobbyist prior to the filing of the lobbyist/organization form and paying the appropriate fee, if any.~~

~~If a natural person engaging in lobbying activity is employed by, or is an owner of, a lobbying firm, the names and addresses of both the lobbying firm and the natural person performing the lobbying activity shall be entered in the register in accordance with the provisions hereof, and~~

~~pursuant to the statutory requirement both the natural person and the lobbying firm shall be subject to the reporting requirements hereof.~~

~~All forms prescribed for filing with the Office of the Secretary of State must be completed in their entirety by the filing party. Any omission of required information shall constitute an improper filing and any such form must be resubmitted by the filing party.~~

~~**7. — Entries as to additional subjects of legislation.** — Every "person" (individual, firm, business, corporation, association, partnership, or other group) employing any lobbyist, and the lobbyist, shall, whenever further subjects of legislation are introduced or arise which the lobbyist is to promote or oppose, designate such matters through the online form designated by the Secretary of State.~~

~~**8. — Identification badge.** — If the lobbying firm is not the entity on whose behalf the lobbying activity is undertaken, the entity providing compensation to the lobbyist shall be included on the badge. A lobbyist's registration shall not be deemed complete until the annual fee is received by the Office of the Secretary of State.~~

~~**9. — Financial reports.** — As set forth in R.I. Gen. Laws § 22-10-2 compensation is defined as "any remuneration received or to be received for services rendered as a lobbyist . . .". In this regard, the following rules shall apply to reporting compensation for lobbying services:~~

~~(a.) Any "person" (individual, firm, business, corporation, association, partnership, or other group) registered as a lobbyist with the Public Information Division of the Office of the Secretary of State shall specifically delineate any actual or anticipated fee, salary, forbearance, forgiving, reimbursement for expenses or any combination or other form thereof in the respective area provided on the reporting forms issued by the Office of the Secretary of State. Any compensation or reimbursement the lobbyist expects to receive shall be disclosed in the appropriate reporting form to the best of the ability of the reporting "person" (individual, firm, business, corporation, association, partnership, or other group):~~

~~(b.) It shall be the responsibility of the lobbyist to properly categorize the type and/or nature of the remuneration received or to be received as described above.~~

~~(c.) In accordance herewith, any retainer or other fee payment arrangement shall be disclosed (which may include an appropriate explanation) in the appropriate area on any reporting form. Said information shall be disclosed as known or when apparent to the lobbyist and any applicable reports may be modified or amended as the same becomes known to the lobbyist.~~

~~(d.) In instances which a natural person registered as a lobbyist is performing lobbying activities as part of his or her regular employment, he or she shall be required to provide a good faith estimate of the dollar amount of his or her compensation which is attributable to lobbying activities. The dollar amount estimate shall be disclosed on the appropriate reporting form.~~

~~**10. — Duties and powers of the Secretary of State.** — The Secretary of State has been granted the authority to perform any duties that are necessary to implement these provisions. In addition to the specific powers granted pursuant to R.I. Gen. Laws § 22-10-10, and without limiting the generality thereof, the Secretary of State is authorized and empowered to, and hereby does, pursuant to R.I. Gen. Laws § 42-127.1-7, require that all prescribed forms be in an electronic format and submitted through an on-line interface.~~

~~**11. — Penalty for violations of chapter.** — (a.) In the event that any "person" (individual, firm, business, corporation, association, partnership, or other group) or entity fails to file any report required by law in a timely manner, the Secretary of State, by and through his or her designees, will provide notice of the failure to file said report to the non-complying party at any time after said report shall become due.~~

~~(b.) Should a "person" (individual, firm, business, corporation, association, partnership, or other group) remain in non-compliance with any statutory reporting requirement after notice as provided herein, the Secretary of State may, by and through his or her designees, schedule a hearing at which the "person" (individual, firm, business, corporation, association, partnership, or other group) alleged to be in violation of R.I. Gen. Laws § 22-10 may provide evidence in his, her, or its own defense as to why he, she, or it is not in violation of the governing statute and address the issue of why administrative penalties pursuant to R.I. Gen. Laws § 22-10-11 should not be imposed.~~

~~For purposes of the hearing referred to above, the lobbyist file as maintained by the Public Information Division of the Office of the Secretary of State shall be admissible as evidence and subject to review by the "person" (individual, firm, business, corporation, association, partnership, or other group) alleged in violation of statute.~~

~~Upon due consideration of the facts pertaining to violation of the statutory reporting requirements and after notice as provided herein, the Secretary of State may, by and through his or her designees, issue a show cause order against the alleged violator thereby requiring the "person" (individual, firm, business, corporation, association, partnership, or other group) to establish facts which show cause as to why administrative penalties should not be imposed pursuant to R.I. Gen. Laws § 22-10-11.~~

~~Upon conclusion of investigation and any hearing held by the Secretary of State, the Secretary of State may impose penalties of Twenty five Dollars (\$25.00) per day for each violation or day of noncompliance commencing with the date of the first notice of non compliance. In no event shall said penalties exceed the sum of Two Thousand Dollars (\$2,000.00) per violation.~~

~~(c.) In any hearing called by the Secretary of State in accordance with R.I. Gen. Laws § 22-10-11 the following practices and procedures shall apply:~~

~~(i.) Any "person" (individual, firm, business, corporation, association, partnership, or other group) alleged to be in violation of R.I. Gen. Laws § 22-10 shall be provided within ten (10) days written notice of the scheduled hearing date.~~

~~(ii.) A copy of said written notice shall be provided to the related lobbyist, the related lobbying firm, if applicable, and to the "person" (individual, firm, business, corporation, association, partnership, or other group) by whom the lobbyist or lobbying firm was engaged, if any.~~

~~(iii.) An audiotape recording of any hearing or proceeding held in accordance with R.I. Gen. Laws § 22-10 shall be maintained by the Office of the Secretary of State. Any "person" (individual, firm, business, corporation, association, partnership, or other group) alleged to be in non-compliance with said R.I. Gen. Laws § 22-10 shall be permitted to seek a stenographic record of the proceedings at his, her, or its own expense.~~

~~(iv.) Transcription of any recorded oral proceedings shall be made upon request by any party to the proceedings. All expenses associated with said transcription shall be borne by the requesting party.~~

~~(v.) An informal disposition of any matter may be made of any contested case by stipulation, agreed settlement, consent order or default.~~

~~(vi.) All hearings shall be conducted before a hearing officer designated by the Secretary of State.~~

12. — Lobbying without compliance prohibited. ~~No "person" (individual, firm, business, corporation, association, partnership, or other group) shall directly or indirectly employ any "person" (individual, firm, business, corporation, association, partnership, or other group) as a lobbyist unless the name of that employing "person" (individual, firm, business, corporation, association, partnership, or other group) and the lobbyist are duly entered on the register as~~

~~provided by this chapter.~~

~~By order of the Secretary of State,
Matthew A. Brown~~

~~Adopted in accordance with the provisions of Title 42, Chapter 35 of the Rhode Island
General Laws of 1956, as amended.~~

~~Witness~~

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