

# A Company's Basic Guide to Lobbying in Florida

July 24, 2012

Lobbying is a legitimate and necessary part of the political process at all levels of government. Indeed, the right to petition government and participate in law and rule-making is as old and vital to democracy as is the United States Bill of Rights where it is guaranteed. Laws and rules have a direct impact on companies, large or small. However, politicians and bureaucrats often do not understand or appreciate the complexities of running a business. Therefore, it is necessary to educate policymakers about the effects that a rule or piece of proposed legislation could have on a company or industry. Many companies consider lobbying essential to their overall government affairs function and business operations, particularly if the company is impacted by government public policy decisions and regulations. Public officials cannot really make fair and informed decisions without considering information from a broad range of interested parties. All sides of an issue should be explored to produce an equitable policy. Lobbying efforts help ensure that balance. But what exactly is lobbying and who is a lobbyist? Are there different types of lobbying? Is it a regulated practice? And who oversees the ethical behavior of lobbyists in Florida? This article will answer these questions and explain the circumstances under which interaction with public policy makers is deemed lobbying. **What is Lobbying?**

Lobbying is any activity intended to influence the outcome of a public policy decision through a written or oral communication that attempts to obtain the good will of a legislator; state or local executive official; or their staffs. The effort includes attempts to influence, pass, or defeat public policies and regulations, consistent with a company's mission or strategies. **Legislative Versus State Executive Branch Lobbying**

At the state level of Florida government there are two types of lobbying: legislative branch and executive branch. They are slightly different. Visiting a Florida state legislator's office as a matter of simple courtesy and having a general conversation about the weather or current events is not lobbying, *provided the company official is not attempting to influence the outcome of the legislator's decision on a public policy question*. However, if the conversation involves, for example, asking the

legislator to support or oppose the provisions of a piece of proposed legislation or an amendment thereto, or speaking to legislative staff about the merits of a bill or proposed bill or amendment, the company official is lobbying the elected official or staff because he or she is trying to influence the legislator's decision or vote on the proposal, and is thus trying to influence the outcome of the proposed public policy. So, legislative lobbying in Florida is any activity between a registered legislative branch lobbyist and an elected official or legislative staff that involves working to influence the outcome of a policy issue or position within the legislative branch of government. There are slight variations regarding what constitutes lobbying the executive branch of Florida government. If a company official meets privately with a state agency official to try to influence the outcome of an agency decision that will affect a class of people, a proposed rule for example, the company official is lobbying the agency. However, that same company official who appears and testifies at the agency's publicly noticed hearing or workshop to discuss the same proposed rule is not lobbying. Nor is it lobbying to have a conversation with an agency official about an issue that affects only the company and no other persons, for example, the approval of an application. Ultimately, executive lobbying is any activity between a registered executive branch lobbyist and an elected official or staff that involves working to influence the outcome of a policy that affects a class of people (e.g., activity with an agency staffer to influence the outcome of a rule during a private conversation or meeting). Executive branch lobbying is not:

- Participating at a public meeting where a proposed rule is formally considered or informally discussed at a public workshop held by a state agency (therefore, lobbying in this situation is any work or private discussions with agency staff prior to or following the public meeting or workshop); or
- Representing the interests of a company in its interactions with an agency (e.g., filing an application for an insurance license)

**Who is a Lobbyist?** A lobbyist is any person who is employed and receives payment, or who contracts for economic consideration, for the purpose of lobbying. Pro bono representation where no compensation is received for the representation is exempt from lobbying registration requirements. An employee of a principal (defined as a person, firm, or corporation as discussed in the registration section below) is not a lobbyist unless the employee is primarily employed to handle governmental affairs, meaning one of the employee's most significant responsibilities is to oversee the various relationships with government, or represent the employer in its contacts with government. **How are Lobbyists Regulated?** Legislative branch lobbyists are regulated by the Florida Legislature under [sections 11.044-.062, Florida Statutes](#), and by [Joint Rule One of the Florida Legislature, entitled "Lobbyist Registration and Compensation Reporting"](#). Executive branch lobbyists are regulated by the Florida Commission on Ethics under [Part III of Chapter 112, Florida Statutes](#), and by [Rule Chapter 34-12, Florida Administrative Code, entitled "Executive Branch Lobbyist Registration"](#). **Registration as a Lobbyist is Required** Prior to engaging in any lobbying activity, individuals must register to lobby at the state level of Florida government. This requirement

covers any company official who engages in lobbying activities aimed at a legislator or a state executive official, or their respective staffs. All lobbyists must register with the Lobbyist Registration Office in the Division of Information Services of the Office of Legislative Services (<http://www.leg.state.fl.us>). Registration is required for each principal — a person, firm or corporation — represented. A principal is not a “lobbying firm.” A lobbying firm is any business entity, including an individual contract lobbyist that receives or becomes entitled to receive any compensation for the purposes of lobbying where any partner, owner, officer, or employee of the business entity is a lobbyist. A lobbying firm must report compensation received or owed for lobbying activities. A principal is not required to make such a report. Because the regulation of legislative and executive branch lobbying is bifurcated, separate registrations are required. However, the Lobbyist Registration Office receives and processes both types of registrations (<http://www.leg.state.fl.us>). Florida Legislature registration requires the lobbyist’s name, business address, and phone number; the principal represented and principal’s business address; the lobbying firm (if applicable); the lobbying firm’s phone number and business address (if applicable); whether the lobbyist has a business association or partnership with a current member of the Legislature and, if so, the name of the member; and whether the lobbyist has been convicted of a felony. Executive branch registration requires very similar information. The information provided for both registrations must be stated under oath. Lobbyist registration fees:

- Legislature \$50 for a lobbyist’s first principal registration of the year and \$20 for each additional principal registration
- Executive \$25 per principal registration; It is not necessary to register with each state agency individually. An executive lobbyist registration for one principal is adequate for the principal’s lobbyist to work across all state agencies and also within the offices of the Governor and Cabinet members.

Lobbyist registrations are effective when they are received by the Lobbyist Registration Office. Lobbying may not occur prior to proper registration. The registration and fee cycle mirrors a calendar year, beginning January 1 and ending December 31. **A Special Caution about State Agency Involvement in Legislative Lobbying** In the course of lobbying a legislative issue for a principal, there will be many instances where it becomes necessary for the lobbyist to interact with the executive state agency that has jurisdiction over the legislation’s subject matter, or that will be somehow affected if the legislative measure becomes law. More often than not, a legislator or a legislative staff member will want to know the state agency’s position on the legislation before moving forward. In these situations, lobbyists find they must work with the state agency on the legislative matter to gain its buy-in and resolve differences, if possible. In the above scenario, although properly registered in the Legislature, the lobbyist may not be correspondingly registered in the executive branch for the same principal. This is a gray area; but since the lobbyist is now attempting to influence the outcome of a legislative measure within the state agency, it is highly recommended that the lobbyist become immediately registered within the executive branch

notwithstanding the issue being a legislative public policy matter. **Lobbying Before Local Governments** In Florida, 481 cities and 67 counties have independently adopted ordinances that cover lobbyist registration and regulation. They must be researched and understood. These ordinances vary in scope and requirements. If a company needs to influence the outcome of any public policy decision at any local level of government, it is essential to understand and comply with the unique regulatory requirements of each local government entity. Many local governments deem any contact with staff or local commissioners, including testimony before the local government commission, even on a permit or if an attorney, as an activity subject to lobby registration. Florida county website links may be obtained from the Florida Association of Counties at [www.fl-counties.com](http://www.fl-counties.com). Florida city website links may be obtained from the Florida League of Cities at [www.floridaleagueofcities.com](http://www.floridaleagueofcities.com).

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