

By: Senator(s) Nunnelee

To: Judiciary

SENATE BILL NO. 2038

1 AN ACT TO AMEND SECTIONS 5-8-3 AND 5-8-7, MISSISSIPPI CODE OF
2 1972, TO PROVIDE THAT PUBLIC EMPLOYEES ENGAGED IN LOBBYING
3 ACTIVITIES SHALL BE GOVERNED BY THE LOBBYING LAW REFORM ACT OF
4 1994; AND FOR RELATED PURPOSES.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

6 **SECTION 1.** Section 5-8-3, Mississippi Code of 1972, is
7 amended as follows:

8 5-8-3. The following words and phrases shall have the
9 meanings ascribed herein unless the context clearly indicates
10 otherwise:

11 (a) (i) "Anything of value" means:

12 1. A pecuniary item, including money, or a
13 bank bill or note;

14 2. A promissory note, bill of exchange,
15 order, draft, warrant, check or bond given for the payment of
16 money;

17 3. A contract, agreement, promise or other
18 obligation for an advance, conveyance, forgiveness of
19 indebtedness, deposit, distribution, loan, payment, gift, pledge
20 or transfer of money;

21 4. A stock, bond, note or other investment
22 interest in an entity;

23 5. A receipt given for the payment of money
24 or other property;

25 6. A right in action;

26 7. A gift, tangible good, chattel or an
27 interest in a gift, tangible good or chattel;

28 8. A loan or forgiveness of indebtedness;



- 29 9. A work of art, antique or collectible;
- 30 10. An automobile or other means of personal
- 31 transportation;
- 32 11. Real property or an interest in real
- 33 property, including title to realty, a fee simple or partial
- 34 interest, present or future, contingent or vested within realty, a
- 35 leasehold interest, or other beneficial interest in realty;
- 36 12. An honorarium or compensation for
- 37 services;
- 38 13. A rebate or discount in the price of
- 39 anything of value, unless the rebate or discount is made in the
- 40 ordinary course of business to a member of the public without
- 41 regard to that person's status as an executive, legislative or
- 42 public official or public employee, or the sale or trade of
- 43 something for reasonable compensation that would ordinarily not be
- 44 available to a member of the public;
- 45 14. A promise or offer of employment;
- 46 15. Any other thing of value that is
- 47 pecuniary or compensatory in value to a person, except as
- 48 otherwise provided in subparagraph (ii) of this paragraph; or
- 49 16. A payment that directly benefits an
- 50 executive, legislative or public official or public employee or a
- 51 member of that person's immediate family.
- 52 (ii) "Anything of value" does not mean:
- 53 1. Informational material such as books,
- 54 reports, pamphlets, calendars or periodicals informing an
- 55 executive, legislative or public official or public employee of
- 56 her or his official duties;
- 57 2. A certificate, plaque or other
- 58 commemorative item which has little pecuniary value;
- 59 3. Food and beverages for immediate
- 60 consumption provided by a lobbyist up to a value of Ten Dollars
- 61 (\$10.00) in the aggregate during any calendar year;



62 4. Campaign contributions reported in
63 accordance with Section 23-15-801 et seq., Mississippi Code of
64 1972.

65 (b) "Commission" means the Mississippi Ethics
66 Commission, when used in the context of Section 5-8-19 of this
67 chapter.

68 (c) "Compensation" means:

69 (i) An advance, conveyance, forgiveness of
70 indebtedness, deposit, distribution, loan, payment, gift, pledge
71 or transfer of money or anything of value, including reimbursement
72 of travel, food or lodging costs; or

73 (ii) A contract, agreement, promise or other
74 obligation for an advance, conveyance, forgiveness of
75 indebtedness, deposit, distribution, loan, payment, gift, pledge
76 or transfer of money or anything of value, including reimbursement
77 of travel, food or lodging costs, for services rendered or to be
78 rendered.

79 (d) "Executive action" means the proposal, drafting,
80 development, consideration, amendment, adoption, approval,
81 promulgation, issuance, modification, rejection or postponement by
82 a state or local governmental entity of a rule, regulation, order,
83 decision, determination or other quasi-legislative action or
84 proceeding.

85 (e) "Executive agency" means:

86 (i) An agency, board, commission, governing
87 authority or other body in the executive branch of state or local
88 government; or

89 (ii) An independent body of state or local
90 government that is not a part of the legislative or judicial
91 branch, but which shall include county boards of supervisors.

92 (f) "Executive official" means:



93 (i) A member or employee of a state agency, board,
94 commission, governing authority or other body in the executive
95 branch of state or local government; or

96 (ii) A public official or public employee, or any
97 employee of such person, of state or local government who takes an
98 executive action.

99 (g) "Expenditure" means:

100 (i) A purchase, payment, distribution, loan,
101 forgiveness of a loan or payment of a loan by a third party,
102 advance, deposit, transfer of funds, a promise to make a payment,
103 or a gift of money or anything of value for any purpose;

104 (ii) A payment to a lobbyist for salary, fee,
105 commission, compensation for expenses, or other purpose by a
106 person employing, retaining or contracting for the services of the
107 lobbyist separately or jointly with other persons;

108 (iii) A payment in support of or assistance to a
109 lobbyist or the lobbyist's activities, including the direct
110 payment of expenses incurred at the request or suggestion of the
111 lobbyist;

112 (iv) A payment that directly benefits an
113 executive, legislative or public official or a member of the
114 official's immediate family;

115 (v) A payment, including compensation, payment or
116 reimbursement for the services, time or expenses of an employee
117 for or in connection with direct communication with an executive,
118 legislative or public official made at the direction of the
119 employee's employer;

120 (vi) A payment for or in connection with
121 soliciting or urging other persons to enter into direct
122 communication with an executive, legislative or public official;
123 or

124 (vii) A payment or reimbursement for food,
125 beverages, travel, lodging, entertainment or sporting activities.



126 (h) "Gift" means anything of value to the extent that
127 consideration of equal or greater value is not received, including
128 a rebate or discount in the price of anything of value unless the
129 rebate or discount is made in the ordinary course of business to a
130 member of the public without regard to that person's status as an
131 executive, legislative or public official.

132 (i) "Legislative action" means:

133 (i) Preparation, research, drafting, introduction,
134 consideration, modification, amendment, approval, passage,
135 enactment, tabling, postponement, defeat or rejection of a bill,
136 resolution, amendment, motion, report, nomination, appointment or
137 other matter by the Mississippi State Legislature or a member or
138 employee of the Legislature acting or purporting to act in an
139 official capacity;

140 (ii) Action by the Governor in approving or
141 vetoing a bill or other action of the Legislature;

142 (iii) Action by the Legislature in:

143 1. Overriding or sustaining a veto by the
144 Governor; or

145 2. Considering, confirming or rejecting an
146 executive appointment of the Governor.

147 (j) "Legislative official" means:

148 (i) A member, member-elect or presiding officer of
149 the Legislature;

150 (ii) A member of a commission or other entity
151 established by and responsible to either or both houses of the
152 Legislature;

153 (iii) A staff member, officer or employee to a
154 member or member-elect of the Legislature, to a member of a
155 commission or other entity established by and responsible to
156 either or both houses of the Legislature, or to the Legislature or
157 any house, committee or office thereof.

158 (k) "Lobbying" means:



159 (i) Influencing or attempting to influence
160 legislative or executive action through oral or written
161 communication; or
162 (ii) Solicitation of others to influence
163 legislative or executive action; or
164 (iii) Paying or promising to pay anything of value
165 directly or indirectly related to legislative or executive action.

166 (l) "Lobbyist" means:

167 (i) An individual who is employed and receives
168 payments, or who contracts for economic consideration, including
169 reimbursement for reasonable travel and living expenses, for the
170 purpose of lobbying;

171 (ii) An individual who represents a legislative or
172 public official or public employee, or who represents a person,
173 organization, association or other group, for the purpose of
174 lobbying; * * *

175 (iii) A sole proprietor, owner, part owner or
176 shareholder in a business who has a pecuniary interest in
177 legislative or executive action, who engages in lobbying
178 activities; or

179 (iv) A public employee who engages in lobbying
180 activities on behalf of his employer.

181 (m) "Lobbyist's client" means the person in whose
182 behalf the lobbyist influences or attempts to influence
183 legislative or executive action.

184 (n) "Local" means all entities of government at the
185 county, county-district, multicounty district, municipal or school
186 district level.

187 (o) "Person" means an individual, proprietorship, firm,
188 partnership, joint venture, joint-stock company, syndicate,
189 business trust, estate, company, corporation, association, club,
190 committee, organization or group of persons acting in concert.



191 (p) "Public employee" means an individual appointed to
192 a position, including a position created by statute, whether
193 compensated or not, in state or local government and includes any
194 employee of the public employee. The term includes a member of
195 the board of trustees, chancellor, vice chancellor or the
196 equivalent thereof in the state university system or the state
197 community and junior college system, and a president of a state
198 college or university or any employee in the state university
199 system or the state community and junior college system who
200 engages in lobbying activities on behalf of his employer.

201 (q) "Public official" means an individual elected to a
202 state or local office, or an individual who is appointed to fill a
203 vacancy in the office.

204 (r) "Value" means the retail cost or fair market worth
205 of an item or items, whichever is greater.

206 **SECTION 2.** Section 5-8-7, Mississippi Code of 1972, is
207 amended as follows:

208 5-8-7. Notwithstanding any other provisions of this chapter,
209 the following person shall not be included within the definition
210 of "lobbyist" or "lobbyist's client" under this chapter, and
211 accordingly the registration and reporting provisions, including
212 the payment of related fees, of this chapter do not apply to:

213 (a) A legislative or public official acting in an
214 official capacity.

215 (b) An individual who:

216 (i) Represents or purports to represent only the
217 individual;

218 (ii) Receives no compensation or anything of value
219 for lobbying; and

220 (iii) Has no pecuniary interest in the legislative
221 or executive action.

222 (c) An individual lobbying in his or her own interest,
223 his or her own business interest, who pays, or promises to pay,



224 offers to pay or causes to be paid to public officials,
225 legislative officials or public employees any thing or things of
226 value aggregating in value to less than Two Hundred Dollars
227 (\$200.00) in any calendar year.

228 (d) An individual lobbying on behalf of his or her
229 employer's business interest where such lobbying is not a primary
230 or regular function of his employment position if such individual
231 pays, promises to pay, offers to pay, or causes to be paid
232 individually or on the employer's behalf to public officials,
233 legislative officials, or public employees anything or things of
234 value aggregating in value to less than Two Hundred Dollars
235 (\$200.00) in any calendar year.

236 (e) An individual lobbying on behalf of an association
237 of which he or she is a member, where such lobbying is not a
238 primary or regular function of his or her position in the
239 association, if such individual pays, promises to pay, offers to
240 pay, or causes to be paid individually or on the association's
241 behalf to public officials, legislative officials or public
242 employees any thing or things of value aggregating in value to
243 less than Two Hundred Dollars (\$200.00) in any calendar year.

244 (f) An individual who is a shareholder, owner or part
245 owner of a business who lobbies on behalf of such business, where
246 such individual is not an employee of the business, if such
247 individual pays, promises to pay, offers to pay, or causes to be
248 paid individually or on behalf of the business to public
249 officials, legislative officials or public employees any thing or
250 things of value aggregating in value to less than Two Hundred
251 Dollars (\$200.00) in any calendar year.

252 (g) An individual who:

253 (i) Limits lobbying solely to formal testimony
254 before a public meeting of a legislative body or an executive
255 agency, or a committee, division or department thereof; and



256 (ii) Registers the appearance in the records of
257 the public body, if such records are kept.

258 (h) An individual who is a licensed attorney
259 representing a client by:

260 (i) Drafting bills, preparing arguments thereon,
261 and advising the client or rendering opinions as to the
262 construction and effect of proposed or pending legislation, where
263 such services are usual and customary professional legal services
264 which are not otherwise connected with legislative action; or

265 (ii) Providing information, on behalf of the
266 client, to an executive or public official, a public employee, or
267 an agency, board, commission, governing authority or other body of
268 state or local government where such services are usual and
269 customary professional legal services including or related to a
270 particular nonlegislative matter, case or controversy.

271 (i) News media and employees of the news media whose
272 activity is limited solely to the publication or broadcast of
273 news, editorial comments, or paid advertisements that attempt to
274 influence legislative or executive action. For the purposes of
275 this section, "news media" shall be construed to be bona fide
276 radio and television stations, newspapers, journals or magazines,
277 or bona fide news bureaus or associations which in turn furnish
278 information solely to bona fide radio or television stations,
279 newspapers, journals or magazines.

280 (j) An individual who engages in lobbying activities
281 exclusively on behalf of a religious organization which qualifies
282 as a tax-exempt organization under the Internal Revenue Code.

283 (k) An individual who is a nonattorney professional and
284 who receives professional fees and expenses to represent clients
285 on executive agency matters, except that if anything of value
286 shall be paid or promised to be paid directly or indirectly on
287 behalf of a client for the personal use or benefit of an executive
288 or public official or public employee, then expenditures and



289 actions of the individual are reportable under this chapter, and
290 the individual must register as a lobbyist.

291 (1) A public employee requested to testify before the
292 Legislature who is not engaging in lobbying activities.

293 **SECTION 3.** The Attorney General of the State of Mississippi
294 shall submit this act, immediately upon approval by the Governor,
295 or upon approval by the Legislature subsequent to a veto, to the
296 Attorney General of the United States or to the United States
297 District Court for the District of Columbia in accordance with the
298 provisions of the Voting Rights Act of 1965, as amended and
299 extended.

300 **SECTION 4.** This act shall take effect and be in force from
301 and after the date it is effectuated under Section 5 of the Voting
302 Rights Act of 1965, as amended and extended.

