

By: Senator(s) Williamson, Dawkins

To: Judiciary, Division A

SENATE BILL NO. 2620

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.

67 (c) "Compensation" means:

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

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

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

84 (e) "Executive agency" means:

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

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

91 (f) "Executive official" means:

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

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

98 (g) "Expenditure" means:

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

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

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

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

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

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

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

125 (h) "Gift" means anything of value to the extent that
126 consideration of equal or greater value is not received, including
127 a rebate or discount in the price of anything of value unless the

128 rebate or discount is made in the ordinary course of business to a
129 member of the public without regard to that person's status as an
130 executive, legislative or public official.

131 (i) "Legislative action" means:

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

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

141 (iii) Action by the Legislature in:

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

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

146 (j) "Legislative official" means:

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

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

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

157 (k) "Lobbying" means:

158 (i) Influencing or attempting to influence
159 legislative or executive action through oral or written
160 communication; or

161 (ii) Solicitation of others to influence
162 legislative or executive action; or

163 (iii) Paying or promising to pay anything of value
164 directly or indirectly related to legislative or executive action.

165 (1) "Lobbyist" means:

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

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

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

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

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

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

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

190 (p) "Public employee" means an individual appointed to
191 a position, including a position created by statute, whether
192 compensated or not, in state or local government and includes any
193 employee of the public employee. The term includes a member of

194 the board of trustees, chancellor, vice chancellor or the
195 equivalent thereof in the state university system or the state
196 community and junior college system, and a president of a state
197 college or university or any employee in the state university
198 system or the state community and junior college system who
199 engages in lobbying activities on behalf of his employer.

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

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

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

207 5-8-7. Notwithstanding any other provisions of this chapter,
208 the following person shall not be included within the definition
209 of "lobbyist" or "lobbyist's client" under this chapter, and
210 accordingly the registration and reporting provisions, including
211 the payment of related fees, of this chapter do not apply to:

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

214 (b) An individual who:

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

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

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

221 (c) An individual lobbying in his or her own interest,
222 his or her own business interest, who pays, or promises to pay,
223 offers to pay or causes to be paid to public officials,
224 legislative officials or public employees any thing or things of
225 value aggregating in value to less than Two Hundred Dollars
226 (\$200.00) in any calendar year.

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

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

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

251 (g) An individual who:

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

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

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

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

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

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

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

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

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

292 **SECTION 3.** This act shall take effect and be in force from
293 and after July 1, 2007.