RULES AND REGULATIONS
ADOPTED BY THE OFFICE OF THE
SECRETARY OF STATE IN CONNECTION WITH
EXECUTIVE BRANCH AND PUBLIC CORPORATION
LOBBYING ACTIVITIES AND THE ROLE
OF THE SECRETARY IN CONJUNCTION WITH
AND PURSUANT TO TITLE 42 CHAPTER 139
OF THE RHODE ISLAND
GENERAL LAWS OF 1956, AS AMENDED

Promulgated by
Matthew A. Brown
Secretary of State

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The Secretary of State has promulgated the within rules and regulations relative to lobbying activity pursuant to and in accordance with the provisions of § 42-139 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 § 42-139, the following rules and regulations shall apply with respect to executive branch and public corporation lobbying activity and related action in the State of Rhode Island:

Executive Branch and Public Corporation 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 members of the executive branch and to the management of public corporations their opinion on current issues and the management of government affairs. Public confidence in the integrity of the governmental process is strengthened by the identification of persons and groups who on behalf of private interests seek to influence the management of government 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 § 42-139-2, 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 phrase "executive branch" as used herein shall mean any state of Rhode Island governmental body, agency, department, entity, or corporation that is not a part of the legislative or judicial branch of state government, and is not a public corporation as defined at R.I. Gen. Laws § 42-139-2(5).

(c.) 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 member of the executive branch or public corporation, 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.

(d.) The term "lobbyist" is defined in the statute as a person who is employed and receives payment, or who contracts for economic compensation, for the purpose of lobbying, or a person who is principally employed for governmental affairs by another person or governmental entity to lobby on behalf of that other person or governmental entity. The term "person" is defined in the statute 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. None of the following persons shall be deemed a "lobbyist" for purposes of this chapter:

i. A member of the Rhode Island Bar participating in an administrative or judicial proceeding;

ii. A qualified expert witness testifying in an administrative proceeding;

iii. An employee of any branch of federal, state or local government or of any public corporation to the extent that he or she seeks only to influence or affect decisions or actions of other governmental entities and public corporations solely on its own behalf;

iv. Any member of the general assembly, any general officer of the state, any head of any executive department of state government, and any judge of this state acting in his or her official capacity.

(e.) The term "lobbying firm" refers to a business entity that receives compensation for lobbying activity.

(f.) The term "lobbying" is defined in the statute as excluding the following activities:

i. Participation in or attendance at a rally, protest or other public assemblage organized for the expression of political or social views, positions or beliefs;

ii. The solicitation of information about the rules, procedures, forms, programs or requirements of a department, agency, board, commission or public corporation;

iii. Advocacy in connection with matters involving the determination of the rights, duties or obligations of an individual made on a case-by-case basis;

iv. The issuance and dissemination of any publication, including data, research or analysis on public policy issues that is available to the general public, and including also any news media reports, editorials, commentary or advertisements;

v. Participation in a governmental advisory committee or task force;

vi. Representation of one's own, wholly owned business entity;

vii. Participation in a bid conference or responding to request for proposals issued by a state agency or department or by a public corporation;

viii. Responding to a subpoena or to a request for information made by a state agency or department or by a public corporation;

ix. Representation of a client in connection with the granting or denial of a permit, license or benefit, or with potential disciplinary action against the client; or

x. Participation in any proceeding pursuant to chapter 35 of this title.

(g.) The term "original" refers to documents possessing original signatures, including, as applicable, electronic documents.

(h.) The term "person" is defined in the statute at R.I. Gen. Laws § 42-139-2(4) 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.

(i.) The phrase "policy making action" or "policy making decision" shall include an action or decision of the executive branch or a public corporation which involves:

i. the development, promulgation, amendment, or interpretation of laws or executive orders;

ii. the development, promulgation, amendment, or interpretation of regulations to the extent such activities are not exempted under R.I.Gen Law § 42-139-1(b)(x);
iii. the development of budgets; or
iv. the formation of specifications or requirements for the solicitation or negotiation of contracts.

(j.) 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.

(k.) 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.

(l.) The term "violation" refers to any individual act or item of non-compliance with the provisions of R.I. Gen. Laws § 42-139, as amended or any of the rules and regulations established thereunder.

3. Register – Information shown – Public records. – (a) The register of lobbyists required under R.I. Gen. Laws § 42-139-3 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 forms required pursuant to R.I. Gen. Laws § 42-139 shall be filed upon electronic forms issued by the Secretary of State and submitted through an on-line interface. Paper copies of executed 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.

(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.

4. 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 lawfully registered prior to the filing of the form and paying the appropriate fee, if any.

If a natural person is employed as a lobbyist 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 individual lobbyist 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. The Secretary of State shall, 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.

5. Entries as to additional subjects of lobbying. – Every "person" (individual, firm, business, corporation, association, partnership, or other group) employing any lobbyist, and the lobbyist, shall, whenever further subjects arise which the lobbyist is to promote or oppose, designate those subjects on the electronic form designated by the Secretary of State.

6. Financial reports. – As set forth in R.I. Gen. Laws § 42-139-2 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 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.

7. Duties and powers of the Secretary of State. – The Secretary of State has been granted the authority to perform such duties as are necessary to implement these provisions. In addition to the specific powers granted pursuant to R.I. Gen. Laws § 42-139-7, 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.

8. Penalty. – (a.) In the event that any "person" (individual, firm, business, corporation, association, partnership, or other group) 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 § 42-139 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 § 42-139-8(a) 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 § 42-139-8(a).

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 One Thousand Dollars ($1,000.00) per violation.

(c.) In any hearing called by the Secretary of State in accordance with R.I. Gen. Laws § 42-139-7(7) 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 § 42-139 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 § 42-139 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 § 42-139 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.

9. 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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