



## Ethics Commission Report

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**File ID:** 2021-00998

November 22, 2021

**Discussion Item 06**

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**Title:** Discussion Regarding Review of the Lobbyist Registration and Reporting Code (Oral Report)

**Location:** Citywide

**Recommendation:** Review the Lobbyist Registration and Reporting Code (Sacramento City Code Chapter 2.15) and discuss if the commission will add to their workplan to conduct further research and evaluation of the code.

**Contact:** Mindy Cuppy, MMC, (916) 808-5442, Office of the City Clerk

**Presenter:** Commissioner Underwood.

**Attachments:**

1-Description/Analysis

2-Sacramento City Code Chapter 2.15

## Description/Analysis

**Issue Detail:** The purpose of the Lobbyist Registration and Reporting Code (Sacramento City Code chapter 2.15; the “Sacramento Lobbyist Code”) is to maintain a fair and open decision-making process in city government and to ensure that the public and city officials have full knowledge of lobbying activities that have been brought to bear on any legislative or administrative action. To that end, the Sacramento Lobbyist Code states that—

- the people of Sacramento have the need and right to know the identity of lobbyists who attempt to influence the decisions of city government and the means employed by them to advance their interests;
- full disclosure of lobbying activities of such persons and the identity of their employers, will contribute to public confidence in the integrity of local government; and
- full disclosure is also necessary to ensure that city officials are kept informed about the identity of persons whose interests the lobbyists represent.

(Sacramento City Code § 2.15.020.)

The commission has asked to have a discussion on if they will add to their workplan to conduct further research and evaluation of the Lobbyist Registration and Reporting Code.

**Policy Considerations:** The purpose of the Sacramento Ethics Commission is to review and consider complaints against elected and appointed city officials, as further described in Sacramento City Code § 2.112.030, to ensure those city officials are conforming their conduct to the city’s laws and policies. The commission may make recommendations to the City Council regarding the subjects of its purview as described in Sacramento City Code § 2.112.030 (A)(1).

**Economic Impacts:** Not applicable.

**Environment Considerations:** Not applicable.

**Sustainability:** Not applicable.

**Commission/Committee Action:** Not applicable.

**Rationale for Recommendation:** Not applicable.

**Financial Considerations:** Not applicable.

**Local Business Enterprise (LBE):** Not applicable.

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## **Chapter 2.15 THE CITY OF SACRAMENTO LOBBYIST REGISTRATION AND REPORTING CODE**

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### **Article I. Findings and Purpose**

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#### **2.15.010 Title.**

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This chapter shall be known as the city of Sacramento Lobbyist Registration and Reporting Code, hereafter “the lobbyist code.” (Ord. 2003-034 § 1)

#### **2.15.020 Findings and declarations.**

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The city council of the city of Sacramento finds and declares as follows:

- A. The people of Sacramento have the need and right to know the identity of lobbyists who attempt to influence the decisions of city government and the means employed by them to advance their interests; and
- B. Full disclosure of lobbying activities of such persons and the identity of their employers, will contribute to public confidence in the integrity of local government; and
- C. Full disclosure is also necessary to ensure that city officials are kept informed about the identity of persons whose interests the lobbyists represent. (Ord. 2003-034 § 1)

#### **2.15.030 Purpose.**

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The purpose of this chapter is to maintain a fair and open decision-making process in city government and to ensure that the public and city officials have full knowledge of lobbying activities that have been brought to bear on any legislative or administrative action. (Ord. 2003-034 § 1)

### **Article II. Interpretation and Definitions**

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#### **2.15.040 Interpretation.**

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Unless the term is specifically defined in this lobbyist code or the contrary is stated or clearly appears from the context, the definitions set forth in [Government Code](#) Sections 81000, et seq., shall govern the interpretation of this chapter. Any term herein expressed in the plural may also apply to the singular. (Ord. 2003-034 § 1)

#### **2.15.050 Definitions.**

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The following definitions apply in this chapter:

“Activity expense” means any payment made by a lobbyist to or directly benefiting any city official, city official-elect or member of their immediate family. Activity expenses include gifts, honoraria, consulting fees, salaries and any other form of compensation, but do not include campaign contributions.

“Administrative action” means the proposal, drafting, development, consideration, advocacy, or recommendation of any rule, regulation, agreement or contract, permit, license or hiring action.

“City official” means any person who participates in the consideration of any legislative or administrative action other than in a purely clerical, secretarial, or ministerial capacity. City official includes the mayor and mayor-elect; any councilmember and councilmember-elect; any member of a city board, committee, or commission; any city employee; any city representative to any joint powers authority to which the city is a party; and any consultant to the city.

“Consultant” means an individual who, pursuant to a contract with the city:

- A. Makes a governmental decision whether to:
1. Approve a rate, rule, or regulation;
  2. Adopt or enforce a law;
  3. Issue, deny, suspend, or revoke any permit, license, application, certificate, approval, order, or similar authorization or entitlement;
  4. Authorize the city to enter into, modify, or renew a contract provided it is the type of contract which requires city approval;
  5. Grant city approval to a contract which requires city approval and in which the city is a party or to the specifications or scope of work for such a contract;
  6. Grant city approval to a plan, design, report, study or similar item;
  7. Adopt or grant city approval of policies, standards or guidelines for the city, or for any subdivision thereof.

B. Serves in a staff capacity with the city and in that capacity performs the same or substantially all the same duties for the city that would otherwise be performed by an individual holding a position specified in the city's conflict of interest code.

"Client" means a person who is represented by a lobbyist.

"Compensation" means, but is not limited to, money of any denomination or origin; goods or services or anything of value, delivered, or rendered; or promises to perform or provide services or contractual arrangements or awards.

"Gift" means gift as defined in the California Political Reform Act, [Government Code](#) section § 81000, et seq., as amended from time to time.

"Influence" or "influencing" means the purposeful communication, either directly or through agents, promoting, supporting, modifying, opposing, causing the delay or abandonment of conduct, or otherwise intentionally affecting the behavior of a city of Sacramento official or official-elect, by any means, including, but not limited to, providing or using persuasion, information, incentives, statistics, studies or analyses; excepted from this definition is communication made as a part of a noticed governmental public meeting.

"Legislative action" means the drafting, introduction, consideration, modification, enactment or defeat of any motion, resolution, ordinance, amendment thereto, report, nomination, or other action of the mayor, city council, any committee of the city council, any entity for which the city council is the governing body, any joint powers authority of which the city is a party, or any city board, commission, or committee.

"Lobbying" is the influencing or attempting to influence a legislative or administrative action of the city of Sacramento.

"Lobbyist", unless exempt under subsection D hereunder, means:

A. Contract Lobbyist. A person who engages in lobbying on behalf of one or more clients (acting individually or through agents, associates, employees or contractors) and who has received or has entered into an agreement for compensation of \$3,200 or more for engaging in lobbying during any consecutive three-month period.

B. Business or Organization Lobbyist. Any business or organization, whose owners, officers, or employees carry out lobbying on its behalf, in an aggregate amount of 100 hours or more within any three-month period, whether or not such officers or employees are specifically compensated to engage in lobbying; provided that the activities of officers shall be considered lobbying only if those officers receive compensation by the business or organization beyond reimbursement for their reasonable, travel, meals or incidental expenses; or

C. Expenditure Lobbyist. A person who makes payments or incurs expenditures of \$5,000 or more during any calendar year in connection with carrying out public relations, advertising or similar activities with the intent of soliciting or urging, directly or indirectly, other persons to communicate directly with any city official in order to attempt to influence legislative or administrative action. The \$5,000 threshold does not include:

1. Compensation paid to contract lobbyists or employees for lobbying; or

2. Dues payments, donations, or other economic consideration paid to an organization, regardless of whether the dues payments, donations or other economic consideration are used in whole or in part to lobby.

D. Exemptions to “lobbyist” are:

1. Any public official acting in their official capacity or acting within the scope of their employment or appointment;

2. The media, when limiting its action to the ordinary course of news gathering or editorial activity, as carried out by members of the press. “Media” means newspapers or any other published periodical, radio or television station or network or information published on the Internet. This exemption also applies to neighborhood newsletters, flyers, or gazettes;

3. Persons reimbursed for only their reasonable travel, meals or incidental expenses, including but not limited to, uncompensated members or directors of non- profit organizations such as chambers of commerce;

4. Persons whose communications regarding any legislative or administrative action are limited to appearing or submitting testimony at any public meeting held by the city or any of its agencies, offices, or departments, as long as the communications are public records available for public review. Notwithstanding the foregoing, persons who otherwise qualify as lobbyists must register and disclose their lobbying activities directed toward city officials, in the same manner and to the same extent such registration and disclosure is required of all other lobbyists;

5. Persons submitting bids or responding to requests for proposals, provided the provision of such information is limited to direct conversation or correspondence with the official or department specifically designated to receive such information;

6. Persons providing oral or written information pursuant to a subpoena or otherwise compelled by law or regulation, or in response to an official request provided that the request and response thereto are public records available for public review;

7. Persons whose communications relate to:

a. The establishment, amendment, administration, implementation or interpretation of a collective bargaining agreement or a memorandum of understanding between the city and a recognized employee association.

b. Management decisions as to the working conditions of represented employees that clearly relate to the terms of a collective bargaining agreement or memorandum of understanding between the city and a recognized employee association.

c. Proceedings before the City of Sacramento Civil Service Board. “Organization” means any person that is not an individual.

“Person” means any individual, domestic or foreign corporation, for-profit or non- profit entity, firm, association, syndicate, union, chamber of commerce, joint-stock company, partnership of any kind, limited liability company, common-law trust, society, or any other group of persons acting in concert. (Ord. 2021-0001 § 1; Ord. 2003-034 § 1)

### **Article III. Registration of Lobbyists**

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#### **2.15.060 Registration.**

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Lobbyists shall register with the city clerk within 15 calendar days after qualifying as a lobbyist under section [2.15.050](#). (Ord. 2021-0001 § 2; Ord. 2003-034 § 1)

#### **2.15.070 Annual registration renewal.**

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A lobbyist shall renew their registration by January 15 of each year unless they have terminated their status as a lobbyist pursuant to section [2.15.080](#) by such date. (Ord. 2021-0001 § 3; Ord. 2003-034 § 1)

#### **2.15.080 Termination of lobbyist status.**

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After initial registration, annual registration renewals and quarterly registration reports are not required if a termination report attesting to the termination of lobbying services within the city has been filed with the city clerk. (Ord. 2021-0001 § 4; Ord. 2003-034 § 1)

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### **2.15.090 Active status.**

All registrations, renewals and terminations will be deemed filed on the date received by the city clerk. A lobbyist shall be deemed active for the duration of the year of registration ending December 31, unless a declaration attesting to termination of lobbying services within the city is filed. (Ord. 2003-034 § 1)

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### **2.15.100 Penalty for failing to register or report.**

Any person subject to the registration and reporting requirements of this chapter who fails to register or report is subject to a non-registration or late-reporting penalty of \$25 per day, up to a maximum of \$500, from the date of written notification of non-compliance until the date of compliance. (Ord. 2021-0001 § 5; Ord. 2003-034 § 1)

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### **2.15.110 Required registration information.**

Registration statements shall contain the information set forth in Section [2.15.120](#). (Ord. 2003-034 § 1)

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## **Article IV. Disclosure of Lobbying Activities**

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### **2.15.120 Disclosure.**

The initial registration shall contain the name, primary contact, business address, telephone number, and email address of all persons required to register pursuant to this chapter, including the names of all owners of sole proprietorships and partnerships of fewer than 10 persons. If the registrant is a corporation, it shall also include the names of the president, secretary, chief financial officer, and agent for service of process, if any. Any business or organization registering under this chapter shall also briefly describe the nature of its business or organization. In addition to this information, the report shall contain the following:

A. **Contract Lobbyist.** The name, business address, telephone number, and email address of each client, the nature of each client's business and the item of legislative or administrative action the lobbyist is seeking to influence on behalf of the client; and the name of each person employed or retained by the lobbyist to lobby on behalf of each client.

B. **Business or Organization Lobbyist.** The names of owners, officers or employees conducting lobbying activities and the item of legislative or administrative action the lobbyist is seeking to influence.

C. **Expenditure Lobbyists.** The item of legislative or administrative action the lobbyist is seeking to influence.

D. **All campaign contributions** by a lobbyist or a client at the lobbyist's behest, to any city official, identified by name and by office, to a controlled committee, office holder's fund or legal expense fund, given personally or through an intermediary, totaling \$100 or more, made during the calendar quarter.

E. **Payment received** by the reporting lobbyist for services as a consultant or in any other capacity for services rendered to a city agency, any city official or their controlled committees, any officeholder committee, or ballot measure committee. The dates of payment and name of each payer shall be included.

F. **The name, address, title, telephone number, and email address** of the person responsible for preparing the report, together with that individual's signature attesting to the authority of the signatory and the accuracy and truthfulness of the information submitted. (Ord. 2021-0001 § 6; Ord. 2003-034 § 1)

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### **2.15.130 Subsequent disclosures.**

For each calendar quarter following the quarter in which the lobbyist was required to register, the lobbyist must file a quarterly report with the city clerk not later than 15 calendar days after the end of the qualifying quarter whether or not any lobbying activities have occurred during such period. Reporting must be completed electronically according to the process established by the city clerk. Each quarterly report shall contain the same information as required to be disclosed in the initial registration, for those activities occurring in that quarter. If a lobbyist has terminated all lobbying activities during such quarter, the lobbyist may file a declaration of termination with the quarterly report. The final quarterly report shall include disclosure of any lobbying activities during the quarter of termination. (Ord. 2021-0001 § 7; Ord. 2003-034 § 1)

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#### **2.15.140 Quarterly reports.**

Quarterly reports are to be filed by April 15, July 15, October 15, and January 15, for the prior calendar quarter, and are delinquent thereafter. Reporting must be completed electronically according to the process established by the city clerk. (Ord. 2021-0001 § 8; Ord. 2003-034 § 1)

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#### **2.15.150 Records retention.**

Copies of the records pertaining to the above-required reports shall be preserved by the lobbyist for inspection and audit for a period of four years from date of production. (Ord. 2003-034 § 1)

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#### **2.15.160 Lobbyist identification.**

When appearing in a lobbying capacity at a public meeting of the city council or other city board, commission, or committee, a contract lobbyist shall identify themselves and the client on whose behalf they are appearing, and a business or organization lobbyist shall identify themselves and the business or organization they represent. (Ord. 2021-0001 § 9; Ord. 2003-034 § 1)

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### **Article V. Prohibitions**

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#### **2.15.170 Prohibitions.**

It shall be unlawful for any lobbyist to commit any one of the following acts:

- A. Deception. Deceiving or attempting to deceive any city official with regard to any material fact pertaining to any pending or proposed legislative or administrative action.
- B. Unauthorized Communications. Sending or causing any communication to be sent to any city official in the name of any non-existent person or in the name of an existing person without the express or implied consent of such person.
- C. Fictitious Persons. Contacting any officer of the city in the name of any non-existent person or in the name of any existing person, except with the consent of such existing person.
- D. Indirect Violations. Attempting to evade the requirements of this ordinance through indirect efforts or through the use of agents, associates, intermediaries or employees.
- E. Creation of Obligations. Performing or sponsoring any act with the purpose and intent of placing any city official under personal obligation to the lobbyist. (Ord. 2003-034 § 1)

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### **Article VI. Responsibility**

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#### **2.15.180 The city clerk.**

The city clerk shall:

- A. Oversee compliance with this chapter, including creation of all forms and explanatory materials.
- B. Maintain an electronic filing system for submission of registrations and reports, and publish them on the City's website.

Accept all required filings under articles III and IV of this chapter. (Ord. 2021-0001 § 10; Ord. 2003-034 § 1)

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## **Article VII. Enforcement**

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### **2.15.190 Criminal penalties.**

Any person who knowingly or willfully violates or causes any other person to violate any provision of Article III, IV or V of this chapter is guilty of a misdemeanor. Any person who knowingly or willfully causes any other person to violate any provision of this chapter is guilty of a misdemeanor. (Ord. 2003-034 § 1)

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### **2.15.200 Injunction.**

The city attorney may seek injunctive relief in the courts to enjoin violations of or to compel compliance with the provisions of this chapter. (Ord. 2003-034 § 1)

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### **2.15.210 Practice restrictions.**

No person convicted of a violation of this chapter may act as a lobbyist or otherwise attempt to influence municipal legislation for compensation for one year after such conviction. (Ord. 2003-034 § 1)

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### **2.15.220 Limitation of actions.**

Prosecution for violation of any provision of this chapter shall be commenced within four years after the date on which the violation occurred. (Ord. 2003-034 § 1)

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### **2.15.230 Cost of litigation.**

The court may award costs of litigation including reasonable attorney's fees to the prevailing party in any action to compel compliance with the provisions of this chapter. (Ord. 2003-034 § 1)

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## **Article VIII. Effective Date**

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### **2.15.240 Effective date.**

The registration, reporting and other requirements of this chapter shall apply to lobbying occurring on or after October 1, 2003. Lobbying that occurs prior to October 1, 2003, and payment for lobbying services rendered prior to October 1, 2003, whether made prior to or after October 1, 2003, shall not be considered for purposes of the registration, reporting and other requirements of this chapter. (Ord. 2003-034 § 1)

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