

1 STATE OF OKLAHOMA

2 1st Session of the 52nd Legislature (2009)

3 SENATE BILL 6

By: Crain

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5
6 AS INTRODUCED

7 An Act relating to ethics; amending Rules 20-1-9 and
8 23-1-2 of the Rules of the Ethics Commission (74 O.S.
9 Supp. 2008, Ch. 62, App.), which relate to restraints
10 upon and reporting of things of value; modifying
11 certain calendar year limits on things of value which
12 may be received by elective officers or immediate
13 family members; requiring certain reports; specifying
14 time for filing and contents thereof; requiring
15 reports to be filed electronically and made available
16 to the public; modifying contents of certain reports;
17 and providing an effective date.

18 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

19 SECTION 1. AMENDATORY Rule 20-1-9 of the Rules of the
20 Ethics Commission (74 O.S. Supp. 2008, Ch. 62, App.), is amended to
21 read as follows:

22 Rule 20-1-9. (a) Influence of official act, fraud or official
23 duty. No state officer and no state employee shall, directly or
24 indirectly, ask, demand, exact, solicit, seek, accept, assign,
receive, or agree to receive anything of value for the state officer
or employee or for any other person or entity, in return for being:

(1) influenced in the performance of an official act;

1 (2) influenced to commit, aid in committing, collude in, or
2 allow fraud, or make an opportunity for the commission of fraud on a
3 governmental entity; or

4 (3) induced to perform or fail to perform an act in violation
5 of the state officer's or state employee's official duty.

6 (b) Soliciting individually or on behalf of a regulatory
7 governmental entity prohibited. No state officer and no state
8 employee shall, directly or indirectly, ask, demand, exact, solicit,
9 seek, accept, assign, receive or agree to receive anything of value
10 individually or for or on behalf of a governmental entity from a
11 business entity, its employees, officers or board members, or a
12 person who has greater than a ten percent (10%) interest in such
13 entity if the rates, charges, prices or fees charged by the business
14 entity are subject to regulation by the governmental entity which
15 the officer or employee serves. This provision does not apply to a
16 campaign contribution properly received and reported, which is
17 exempt from the definition of anything of value in Section 2 of
18 Chapter 1 of this title, or to anything of value accepted on behalf
19 of the state of Oklahoma pursuant to Subsection (e) of this section.

20 (c) Calendar year limits on things of value.

21 (1) Elective officers. No elective officer, or an immediate
22 family member of an elective officer shall, directly or indirectly,
23 ask, demand, exact, solicit, seek, accept, assign, receive, or agree
24 to receive things of value in a calendar year which, in the

1 aggregate, are valued at more than ~~one hundred dollars (\$100)~~ three
2 hundred dollars (\$300); and

3 (2) Other state officers and state employees. Except for an
4 elective officer, no state officer, state employee or an immediate
5 family member of such state officer or state employee shall,
6 directly or indirectly, ask, demand, exact, solicit, seek, accept,
7 assign, receive or agree to receive things of value in a calendar
8 year which, in the aggregate, are valued at more than one hundred
9 dollars (\$100):

10 from a person who the state officer or state employee knows or
11 should know:

12 (A) is a lobbyist or lobbyist principal, provided that the
13 following shall not be subject to this subsection:

14 (i) things of value received as a result of or
15 arising out of employment by, or doing business
16 with, a lobbyist or lobbyist principal; and

17 (ii) things of value received from any director,
18 stockholder, partner, agent, affiliate, member,
19 employee or officer of a lobbyist principal if
20 the donor is excepted in subparagraph (D) of
21 Paragraph (2) from the definition of "anything
22 of value" in Section 2 of Chapter 1 of this
23 title, or if there exists between the recipient
24 and the donor a close personal relationship of

1 long standing in which the mutual exchange of
2 gifts on special occasions, such as holidays or
3 anniversaries, has become customary;

4 (B) is seeking to do business or doing business with the
5 governmental entity of which the state officer's or
6 state employee's office or employment is a part; or

7 (C) has an economic interest in actions or matters before
8 or affecting the governmental entity of which the
9 state officer's or state employee's office or
10 employment is a part.

11 A thing or things of value given by a lobbyist; the lobbyist
12 principal by whom the lobbyist is employed or retained; or a
13 stockholder, partner, agent, affiliate, member, employee or officer
14 of the lobbyist principal or lobbyist principals by whom the
15 lobbyist is employed or retained are aggregated for purposes of the
16 disclosure threshold and calendar year limits, regardless of how the
17 thing or things of value are funded if, and only if, the thing or
18 things of value are given at the specific direction, and on behalf
19 of, the lobbyist principal. Lobbyists principals of contract
20 lobbyists shall not be aggregated together for purposes of this
21 provision. If more than one lobbyist is retained or employed by a
22 lobbyist principal, the disclosure and calendar year limits of the
23 first lobbyist to register on behalf of the lobbyist principal for a
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1 calendar year are aggregated with each additional lobbyist employed
2 or retained by the same lobbyist principal.

3 (d) Prohibition versus limit - Exception. Nothing in
4 Subsection (c) shall allow a state officer or state employee to
5 accept anything of value in violation of Subsection (a) of this
6 section. Subsection (c) shall not apply to public members when
7 things of value are received but are not given as a result of the
8 public member's status as a public member.

9 (e) Reporting of things of value. A state officer or state
10 employee shall be required to file a report with the Ethics
11 Commission if he or she, or a member of his or her immediate family,
12 accepts a thing or things of value from a lobbyist or lobbyist
13 principal, the costs of which exceed fifty dollars (\$50) in the
14 aggregate in a calendar year. The report shall be filed within
15 seventy-two (72) hours of such acceptance and shall include:

16 (1) the name of the state officer or state employee;

17 (2) if the thing or things of value were given to an immediate
18 family member of a state officer or state employee, the name of the
19 person to whom the thing or things of value were given and the
20 relationship of such person to the state officer or state employee;

21 (3) a description of the thing or things of value given;

22 (4) the value of the thing or things of value given or a good-
23 faith estimate thereof;

24 (5) the date the thing or things of value were accepted; and

1 (6) the name of the lobbyist or lobbyist principal from whom
2 the thing or things of value were accepted.

3 Such report shall be filed electronically and shall be made
4 available to the public by the Ethics Commission on its website as
5 soon as possible after it is filed.

6 (f) Exceptions for state officers and employees of judicial
7 branch and corporations. Nothing in this section shall allow:

8 (1) a judicial officer, juror, referee, arbitrator or umpire to
9 accept anything of value from a corporation or any other person,
10 knowing that person to be a party in interest or the attorney or
11 counsel of a party in interest to any action or proceeding then
12 pending or about to be brought before him or her pursuant to Section
13 386 of Title 21 of the Oklahoma Statutes; or

14 (2) a corporation to influence elections or official duty by
15 contributions of money or anything of value pursuant to Section 40
16 of Article IX of the Oklahoma Constitution.

17 ~~(f)~~ (g) Exceptions for forms of compensation, gifts to state,
18 and officers/directors of organizations. Nothing in this section
19 shall prohibit the acceptance or require the disclosure of:

20 (1) compensation, bonuses, dividends, interest payments,
21 employee benefits, expense reimbursements or other forms of
22 compensation or earnings on investments;

23 (2) anything of value which is accepted by the Governor on
24 behalf of the state of Oklahoma or a governmental entity pursuant to

1 Section 381 et seq. of Title 60 of the Oklahoma Statutes. In order
2 to be deemed accepted, the Governor must be notified in writing of
3 any gift received by a governmental entity, or person on behalf of a
4 governmental entity, within ten (10) days of receipt of the gift.
5 Notice of acceptance must be received from the Governor within the
6 next thirty (30) days. Upon lack of a response from the Governor
7 within thirty (30) days of receipt of notice, the gift is deemed
8 rejected and must be returned to the donor; or

9 (3) the solicitation or acceptance of anything of value for or
10 from either:

11 (A) a charitable organization or an organization described
12 in Section 501 (c) of Title 26 of the United States
13 Code, 26 U.S.C., Section 501 (c), as it currently
14 exists or as it may be amended; or

15 (B) a tax-exempt professional organization established by
16 state statute or rules passed by the Oklahoma Supreme
17 Court,

18 by a member, state officer or state employee, who is a member,
19 officer or director of the organization, when receipt of anything of
20 value results from the member, state officer or state employee
21 attending a function, meeting or seminar on behalf of, or as a
22 representative of, the organization.

23 ~~(g)~~ (h) No state officer or state employee shall directly or
24 indirectly borrow money from a lobbyist, or an immediate family

1 member of a lobbyist, or an entity controlled by or employing a
2 lobbyist. This subsection shall not apply to:

3 (1) a loan of money made by a commercial lending institution,
4 in the regular course of business, on the same terms ordinarily
5 available to members of the public, and which is not secured or
6 guaranteed by a lobbyist or lobbyist principal or any other person
7 on behalf of a lobbyist or lobbyist principal; or

8 (2) a loan from a father, stepfather, father-in-law, mother,
9 stepmother, mother-in-law, sister, step sister, brother, step
10 brother, child, step child, adopted child or their spouses.

11 ~~(h)~~ (i) Except for the compensation an elective officer is
12 entitled to by law for the performance of official duties, no
13 elective officer shall solicit or accept cash, check or cash
14 equivalent compensation for an article, appearance or speech, or for
15 participation at an event, unless the article, appearance or
16 participation is made as part of the normal course of business in
17 the member's private occupation.

18 SECTION 2. AMENDATORY Rule 23-1-2 of the Rules of the
19 Ethics Commission (74 O.S. Supp. 2008, Ch. 62, App.), is amended to
20 read as follows:

21 Rule 23-1-2. (a) Required reports. Every lobbyist shall file
22 reports required by this section with the Ethics Commission
23 concerning the activities specified in this section. The reports
24 shall be filed whether or not the person has taken any action which

1 is required to be reported pursuant to the provisions of this
2 section. The reports shall be filed between the first and twentieth
3 day of January and the first and twentieth day of July of each
4 calendar year which shall cover the activities during the period
5 following the last report.

6 (b) Disclosure of things of value. The report shall be signed
7 by the lobbyist, who shall attest to the report's accuracy and
8 veracity, and the signature shall be notarized. The reports shall
9 include the information specified in Subsection (d) of this section
10 for things of value given to an elective officer or the immediate
11 family member of an elective officer by the lobbyist or any lobbyist
12 principal by whom the lobbyist is employed or retained, the costs of
13 which exceed ~~ten dollars (\$10)~~ fifty dollars (\$50) in the aggregate
14 or things of value given to a state officer, excluding an elective
15 officer, state employee, or the immediate family member of a state
16 officer, excluding an elective officer, or a state employee, by the
17 lobbyist or any lobbyist principal by whom the lobbyist is employed
18 or retained, the costs of which exceed ~~ten dollars (\$10)~~ twenty-five
19 dollars (\$25) in the aggregate during a six-month period beginning
20 January 1 and ending June 30 or beginning July 1 and ending December
21 31.

22 (c) Limits on things of value and exceptions. Lobbyists or
23 lobbyist principals shall not give things of value which, in the
24 aggregate, are valued at more than ~~one hundred dollars (\$100)~~ three

1 hundred dollars (\$300) annually to any elective officer or the
2 immediate family member of an elective officer, or things of value
3 which, in the aggregate, are valued at more than one hundred dollars
4 (\$100) annually to any other state officer or state employee, or the
5 immediate family member of a state officer, excluding an elective
6 officer, or a state employee, provided that the following shall not
7 be subject to this subsection:

8 (1) things of value given by a lobbyist or lobbyist principal
9 as a result of or arising out of employment of, or the lobbyist or
10 lobbyist principal doing business with a state officer or state
11 employee or the recipient; and

12 (2) things of value given to the recipient by any director,
13 stockholder, partner, agent, affiliate, member, employee or officer
14 of a lobbyist principal if the donor is excepted in subparagraph (D)
15 of Paragraph (2) from the definition of "anything of value" in
16 Section 2 of Chapter 1 of this title, or if there exists between the
17 recipient and the donor a close personal relationship of long
18 standing in which the mutual exchange of gifts on special occasions,
19 such as holidays or anniversaries, has become customary.

20 A thing or things of value given by a lobbyist; the lobbyist
21 principal by whom the lobbyist is employed or retained; or a
22 stockholder, partner, agent, affiliate, member, employee or officer
23 of the lobbyist principal or lobbyist principals by whom the
24 lobbyist is employed or retained are aggregated for purposes of the

1 disclosure threshold and calendar year limits, regardless of how the
2 thing or things of value are funded if, and only if, the thing or
3 things of value are given at the specific direction, and on behalf
4 of, the lobbyist principal. Lobbyist principals of contract
5 lobbyists shall not be aggregated together for purposes of this
6 provision. If more than one lobbyist is retained or employed by a
7 lobbyist principal, the disclosure and calendar year limits of the
8 first lobbyist to register on behalf of the lobbyist principal for a
9 calendar year are aggregated with each additional lobbyist, employed
10 or retained by the same lobbyist principal.

11 (d) Contents of reports. The information to be reported
12 pursuant to the provisions of Subsection (b) of this section shall
13 be as follows:

14 (1) The name and position of the state officer or state
15 employee to whom the thing of value was given;

16 (2) The date the thing of value was given;

17 (3) The nature of the thing of value given;

18 (4) The amount of the expenditure made by the lobbyist or
19 lobbyist principal for the thing of value; and

20 (5) The name of the lobbyist principal or lobbyist principals
21 on whose behalf the thing of value was given, if any.

22 (e) Prohibition against dividing costs among lobbyist
23 principals or other lobbyists. For purposes of reporting things of
24 value as required by this section, a lobbyist giving a thing of

1 value on behalf of more than one lobbyist principal shall not divide
2 the cost of the thing of value by the number of participating
3 lobbyist principals. Nor may a lobbyist divide the cost of a thing
4 of value with other lobbyists for any single expenditure.

5 (f) Presence of lobbyist - exception for nominal things of
6 value. A lobbyist who gives a thing of value to a state officer or
7 state employee must be present when the thing of value is accepted
8 by the recipient unless the thing of value is of no more than ten
9 dollars (\$10) in value.

10 (g) Reporting of things of value given on behalf of lobbyist or
11 lobbyist principal. A lobbyist shall also report things of value
12 when given by other persons on behalf of the lobbyist or the
13 lobbyist principal at the specific direction of the lobbyist or
14 lobbyist principal if they were made with the knowledge of the
15 lobbyist. When other persons, including lobbyist principals, give
16 things of value that the lobbyist is required to report, the other
17 persons shall provide a full, verified account of such things of
18 value to the lobbyist at least seven (7) days before the reports of
19 the lobbyists are due to be filed. When exact values are not known
20 and not ascertainable, a good faith estimate of the fair market
21 value shall be reported.

22 (h) Exception for campaign contributions. Any information
23 required to be reported pursuant to the provisions of Chapter 10 of
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1 this title is not required to be reported pursuant to the provisions
2 of Sections 2 and 3 of this chapter.

3 (i) Form for lobbyist reporting. The form or computer diskette
4 with form software for reports of lobbyists shall be prescribed by
5 the Ethics Commission.

6 (j) Record-keeping requirements. Each lobbyist shall obtain
7 and preserve all accounts, bills, receipts, books, papers, and
8 documents necessary to substantiate the activity reports required to
9 be made pursuant to this section for four (4) years from the date of
10 filing of the reports containing the items.

11 (k) Exceptions to reporting. Nothing in this section shall
12 prohibit the giving or require the disclosure of the giving of
13 anything of value by:

14 (1) a charitable organization or an organization described in
15 Section 501 (c) of Title 26 of the United States Code, 26 U.S.C.,
16 Section 501 (c), as it currently exists or as it may be amended; or

17 (2) a tax-exempt professional organization established by state
18 statute or rules passed by the Oklahoma Supreme Court,
19 to a state officer or state employee, who is an officer or director
20 of the organization, when receipt of anything of value results from
21 the state officer or state employee attending a function, meeting or
22 seminar on behalf of, or as a representative of, the organization.

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SECTION 3. This act shall become effective November 1, 2009.

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