

1 STATE OF OKLAHOMA

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

3 SENATE BILL 797

By: Sykes

4  
5 AS INTRODUCED

6  
7 An Act relating to ethics; amending Rules 20-1-9, 23-  
8 1-2 and 23-1-3 of the Rules of the Ethics Commission  
9 (74 O.S. Supp. 2008, Ch. 62, App.), which relates to  
10 restraints on and reporting of things of value;  
11 prohibiting state officers, state employees and their  
12 family members from requesting or receiving things of  
13 value from certain persons; deleting certain  
14 reporting requirements; prohibiting certain persons  
15 from giving things of value to state officers, state  
16 employees or their family members; providing an  
17 effective date; and declaring an emergency.

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~~ Prohibition on things of value. ~~(1)~~  
21 ~~Elective officers.~~ No elective state officer or state employee, ~~or~~  
22 ~~an~~ and no immediate family member of ~~an elective~~ a state officer or  
23 state employee shall, directly or indirectly, ask, demand, exact,  
24 solicit, seek, accept, assign, receive, or agree to receive things

1 of value ~~in a calendar year which, in the aggregate, are valued at~~  
2 ~~more than one hundred dollars (\$100); 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);~~ from a person who the state officer or state  
10 employee knows or should know:

11 ~~(A)~~

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

14 ~~(i)~~

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

18 ~~(ii)~~

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

1 between the recipient and the donor a close personal  
2 relationship of long standing in which the mutual  
3 exchange of gifts on special occasions, such as  
4 holidays or anniversaries, has become customary;

5 ~~(B)~~

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

9 ~~(C)~~

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

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

1 ~~first lobbyist to register on behalf of the lobbyist principal for a~~  
2 ~~calendar year are aggregated with each additional lobbyist employed~~  
3 ~~or retained by the same lobbyist principal.~~

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

11 (e) Exceptions for state officers and employees of judicial  
12 branch and corporations. Nothing in this section shall allow:

13 (1) a judicial officer, juror, referee, arbitrator or umpire to  
14 accept anything of value from a corporation or any other person,  
15 knowing that person to be a party in interest or the attorney or  
16 counsel of a party in interest to any action or proceeding then  
17 pending or about to be brought before him or her pursuant to Section  
18 386 of Title 21 of the Oklahoma Statutes; or

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

22 (f) Exceptions for forms of compensation, gifts to state, and  
23 officers/directors of organizations. Nothing in this section shall  
24 prohibit the acceptance or require the disclosure of:

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

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

14 (3) the solicitation or acceptance of anything of value for or  
15 from either:

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

20 (B) a tax-exempt professional organization established by  
21 state statute or rules passed by the Oklahoma Supreme  
22 Court,

23 by a member, state officer or state employee, who is a member,  
24 officer or director of the organization, when receipt of anything of

1 value results from the member, state officer or state employee  
2 attending a function, meeting or seminar on behalf of, or as a  
3 representative of, the organization.

4 (g) Loans. No state officer or state employee shall directly  
5 or indirectly borrow money from a lobbyist, or an immediate family  
6 member of a lobbyist, or an entity controlled by or employing a  
7 lobbyist. This subsection shall not apply to:

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

13 (2) a loan from a father, stepfather, father-in-law, mother,  
14 stepmother, mother-in-law, sister, step sister, brother, step  
15 brother, child, step child, adopted child or their spouses.

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

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

4 Rule 23-1-2. (a) ~~Required reports. Every lobbyist shall file~~  
5 ~~reports required by this section with the Ethics Commission~~  
6 ~~concerning the activities specified in this section. The reports~~  
7 ~~shall be filed whether or not the person has taken any action which~~  
8 ~~is required to be reported pursuant to the provisions of this~~  
9 ~~section. The reports shall be filed between the first and twentieth~~  
10 ~~day of January and the first and twentieth day of July of each~~  
11 ~~calendar year which shall cover the activities during the period~~  
12 ~~following the last report.~~

13 ~~(b) Disclosure of things of value. The report shall be signed~~  
14 ~~by the lobbyist, who shall attest to the report's accuracy and~~  
15 ~~veracity, and the signature shall be notarized. The reports shall~~  
16 ~~include the information specified in Subsection (d) of this section~~  
17 ~~for things of value given to an elective officer or the immediate~~  
18 ~~family member of an elective officer by the lobbyist or any lobbyist~~  
19 ~~principal by whom the lobbyist is employed or retained, the costs of~~  
20 ~~which exceed ten dollars (\$10) in the aggregate or things of value~~  
21 ~~given to a state officer, excluding an elective officer, state~~  
22 ~~employee, or the immediate family member of a state officer,~~  
23 ~~excluding an elective officer, or a state employee, by the lobbyist~~  
24 ~~or any lobbyist principal by whom the lobbyist is employed or~~

1 ~~retained, the costs of which exceed ten dollars (\$10) in the~~  
2 ~~aggregate during a six month period beginning January 1 and ending~~  
3 ~~June 30 or beginning July 1 and ending December 31.~~

4 (e) Limits on things of value and exceptions. Lobbyists or  
5 lobbyist principals shall not give things of value ~~which, in the~~  
6 ~~aggregate, are valued at more than one hundred dollars (\$100)~~  
7 ~~annually to any elective state officer or state employee or ~~the~~ to~~  
8 ~~an immediate family member of an elective a state officer, or things~~  
9 ~~of value which, in the aggregate, are valued at more than one~~  
10 ~~hundred dollars (\$100) annually to any other state officer or state~~  
11 ~~employee, or the immediate family member of a state officer,~~  
12 ~~excluding an elective officer, or a state employee, provided that~~  
13 the following shall not be subject to this subsection:

14 (1) things of value given by a lobbyist or lobbyist principal  
15 as a result of or arising out of employment of, or the lobbyist or  
16 lobbyist principal doing business with a state officer or state  
17 employee or the recipient; and

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

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

3 ~~A thing or things of value given by a lobbyist; the lobbyist~~  
4 ~~principal by whom the lobbyist is employed or retained; or a~~  
5 ~~stockholder, partner, agent, affiliate, member, employee or officer~~  
6 ~~of the lobbyist principal or lobbyist principals by whom the~~  
7 ~~lobbyist is employed or retained are aggregated for purposes of the~~  
8 ~~disclosure threshold and calendar year limits, regardless of how the~~  
9 ~~thing or things of value are funded if, and only if, the thing or~~  
10 ~~things of value are given at the specific direction, and on behalf~~  
11 ~~of, the lobbyist principal. If more than one lobbyist is retained~~  
12 ~~or employed by a lobbyist principal, the disclosure and calendar~~  
13 ~~year limits of the first lobbyist to register on behalf of the~~  
14 ~~lobbyist principal for a calendar year are aggregated with each~~  
15 ~~additional lobbyist, employed or retained by the same lobbyist~~  
16 ~~principal.~~

17 ~~(d) Contents of reports. The information to be reported~~  
18 ~~pursuant to the provisions of Subsection (b) of this section shall~~  
19 ~~be as follows:~~

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

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

23 ~~(3) The nature of the thing of value given;~~

24

1       ~~(4) The amount of the expenditure made by the lobbyist or~~  
2 ~~lobbyist principal for the thing of value; and~~

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

5       ~~(e) Prohibition against dividing costs among lobbyist~~  
6 ~~principals or other lobbyists. For purposes of reporting things of~~  
7 ~~value as required by this section, a lobbyist giving a thing of~~  
8 ~~value on behalf of more than one lobbyist principal shall not divide~~  
9 ~~the cost of the thing of value by the number of participating~~  
10 ~~lobbyist principals. Nor may a lobbyist divide the cost of a thing~~  
11 ~~of value with other lobbyists for any single expenditure.~~

12       ~~(f) Presence of lobbyist — exception for nominal things of~~  
13 ~~value. A lobbyist who gives a thing of value to a state officer or~~  
14 ~~state employee must be present when the thing of value is accepted~~  
15 ~~by the recipient unless the thing of value is of no more than ten~~  
16 ~~dollars (\$10) in value.~~

17       ~~(g) Reporting of things of value given on behalf of lobbyist or~~  
18 ~~lobbyist principal. A lobbyist shall also report things of value~~  
19 ~~when given by other persons on behalf of the lobbyist or the~~  
20 ~~lobbyist principal at the specific direction of the lobbyist or~~  
21 ~~lobbyist principal if they were made with the knowledge of the~~  
22 ~~lobbyist. When other persons, including lobbyist principals, give~~  
23 ~~things of value that the lobbyist is required to report, the other~~  
24 ~~persons shall provide a full, verified account of such things of~~

1 ~~value to the lobbyist at least seven (7) days before the reports of~~  
2 ~~the lobbyists are due to be filed. When exact values are not known~~  
3 ~~and not ascertainable, a good faith estimate of the fair market~~  
4 ~~value shall be reported.~~

5 ~~(h) Exception for campaign contributions. Any information~~  
6 ~~required to be reported pursuant to the provisions of Chapter 10 of~~  
7 ~~this title is not required to be reported pursuant to the provisions~~  
8 ~~of Sections 2 and 3 of this chapter.~~

9 ~~(i) Form for lobbyist reporting. The form or computer diskette~~  
10 ~~with form software for reports of lobbyists shall be prescribed by~~  
11 ~~the Ethics Commission.~~

12 ~~(j) Record keeping requirements. Each lobbyist shall obtain~~  
13 ~~and preserve all accounts, bills, receipts, books, papers, and~~  
14 ~~documents necessary to substantiate the activity reports required to~~  
15 ~~be made pursuant to this section for four (4) years from the date of~~  
16 ~~filing of the reports containing the items.~~

17 ~~(k) (b) Exceptions to reporting. Nothing in this section shall~~  
18 ~~prohibit the giving or require the disclosure of the giving of~~  
19 ~~anything of value by:~~

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

23 (2) a tax-exempt professional organization established by state  
24 statute or rules passed by the Oklahoma Supreme Court,

1 to a state officer or state employee, who is an officer or director  
2 of the organization, when receipt of anything of value results from  
3 the state officer or state employee attending a function, meeting or  
4 seminar on behalf of, or as a representative of, the organization.

5 SECTION 3. AMENDATORY Rule 23-1-3 of the Rules of the  
6 Ethics Commission (74 O.S. Supp. 2008, Ch. 62, App.), is amended to  
7 read as follows:

8 Rule 23-1-3. Any person who:

9 (1) is employed or retained by another for financial or other  
10 compensation to perform services that include promoting, opposing or  
11 attempting to influence any executive or administrative action by a  
12 governmental entity, including, but not limited to, the promulgation  
13 of rules and regulations and the setting of rates, other than an  
14 individual whose lobbying activities are only incidental to, and are  
15 not a significant part of, the services provided by such individual  
16 to the client;

17 (2) is seeking to do business or doing business with a  
18 governmental entity; or

19 (3) has an economic interest in actions or matters before or  
20 affecting a governmental entity;

21 ~~shall be required to file, by paper form, the same report required~~  
22 ~~to be filed by lobbyists by Section 2 of this chapter if, and only~~  
23 ~~if, such person gives~~ be prohibited from giving anything or things  
24 of value to a state officer or state employee ~~the cost of which~~

1 ~~exceeds fifty dollars (\$50.00) in the aggregate during a six month~~  
2 ~~period beginning January 1 and ending June 30 or beginning July 1~~  
3 ~~and ending December 31.~~ This provision shall not apply, however, to  
4 things of value received as a result of or arising out of employment  
5 by, or doing business with, a lobbyist or lobbyist principal; and  
6 things of value received from any director, stockholder, partner,  
7 agent, affiliate, member, employee or officer of a lobbyist  
8 principal as a result of a personal or casual relationship with the  
9 recipient. Provided further, this provision shall not apply to  
10 things of value given to a public member when not given as a result  
11 of the public member's status as a public member.

12 SECTION 4. This act shall become effective July 1, 2009.

13 SECTION 5. It being immediately necessary for the preservation  
14 of the public peace, health and safety, an emergency is hereby  
15 declared to exist, by reason whereof this act shall take effect and  
16 be in full force from and after its passage and approval.

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