

1 STATE OF OKLAHOMA

2 1st Session of the 53rd Legislature (2011)

3 SENATE BILL 549

By: Sykes

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5
6 AS INTRODUCED

7 An Act relating to ethical conduct of state officers
8 and employees; amending Rules 257:20-1-9, 23-1-2 and
9 23-1-3 of the Rules of the Ethics Commission (74 O.S.
10 Supp. 2010, Ch. 62, App.), which relate to restraints
11 on and reporting of things of value; prohibiting
12 state officers, state employees and their family
13 members from requesting or receiving things of value
14 from certain persons; deleting certain reporting
15 requirements; prohibiting certain persons from giving
16 things of value to state officers, state employees or
17 their family members; and providing an effective
18 date.

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

20 SECTION 1. AMENDATORY Rule 257:20-1-9 of the Rules of
21 the Ethics Commission (74 O.S. Supp. 2010, Ch. 62, App.), is amended
22 to read as follows:

23 Rule 257:20-1-9. (a) Influence of official act, fraud or
24 official duty. No state officer and no state employee shall,
directly or 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 (1) influenced in the performance of an official act;

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

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

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

22 (c) ~~Calendar year limits~~ Prohibition on things of value.

23 (1) State officers and state employees. No state officer, or
24 state employee ~~or an~~ and no immediate family member of ~~such a~~ a state

1 officer or state employee shall, directly or indirectly, ask,
2 demand, exact, solicit, seek, accept, assign receive or agree to
3 receive ~~things~~ anything of value ~~in a calendar year which, in the~~
4 ~~aggregate, are valued at more than one hundred dollars (\$100)~~ from a
5 person who the state officer or state employee knows or should know:

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

8 (i) things of value received as a result of or
9 arising out of employment by, or doing business
10 with, a lobbyist or lobbyist principal; and

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

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

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

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

20 (d) ~~Prohibition versus limit~~ Exception. ~~Nothing in~~
21 ~~Subsection (c) shall allow a state officer or state employee to~~
22 ~~accept anything of value in violation of Subsection (a) of this~~
23 ~~section.~~ Subsection The provisions of subsection (c) shall not
24 apply to public members when things of value are received but are

1 not given as a result of the public member's status as a public
2 member.

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

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

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

14 (f) Exceptions for forms of compensation, gifts to state, gifts
15 to charitable organizations, officers/directors of professional
16 organizations, humanitarian efforts for state officers and state
17 employees and financial aid awards, tuition waivers, scholarships,
18 educational grants. Nothing in this section shall prohibit the
19 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 the 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 a charitable organization when the solicitation or acceptance
11 is directly related to the purposes or mission of the organization;

12 (4) the solicitation or acceptance of anything of value for or
13 from a tax-exempt professional organization established by state
14 statute or rules passed by the Oklahoma Supreme Court when a state
15 officer or state employee is a member, officer or director of the
16 organization and the receipt of anything of value results from the
17 state officer or state employee attending a function, meeting or
18 seminar on behalf of, or as a representative of, the organization;
19 or

20 (5) the solicitation or acceptance of a thing or things of
21 value by or on behalf of a state officer or state employee, or an
22 immediate family of a state officer or state employee, as a
23 humanitarian effort to assist a victim of a catastrophic accident or
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1 life threatening disease, illness or disability, or a victim of a
2 natural disaster or similar event;

3 (6) the acceptance or award of need-based or merit-based
4 financial aid awards, tuition waivers, scholarships and educational
5 grants, in any form, accepted or awarded to a state officer, a state
6 employee or a family member of a state officer or state employee.

7 Provided, nothing in this subsection shall authorize the
8 solicitation or acceptance of anything of value in violation of the
9 provisions of Subsection (a) of this section.

10 (g) Ban on borrowing from lobbyists. No state officer or state
11 employee shall directly or indirectly borrow money from a lobbyist,
12 or an immediate family member of a lobbyist, or an entity controlled
13 by or employing a lobbyist. This subsection shall not apply to:

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

19 (2) a loan from a father, stepfather, father-in-law, mother,
20 stepmother, mother-in-law, sister, step sister, brother, step
21 brother, child, step child, adopted child or their spouses.

22 (h) Ban on elective officers receiving cash or cash equivalent
23 honoraria. Except for the compensation an elective officer is
24 entitled to by law for the performance of official duties, no

1 elective officer shall solicit or accept cash, check or cash
2 equivalent compensation for an article, appearance or speech, or for
3 participation at an event, unless the article, appearance or
4 participation is made as part of the normal course of business in
5 the member's private occupation.

6 SECTION 2. AMENDATORY Rule 257:23-1-2 of the Rules of
7 the Ethics Commission (74 O.S. Supp. 2010, Ch. 62, App.), is amended
8 to read as follows:

9 Rule 257:23-1-2. (a) ~~Required reports. Effective January 1,~~
10 ~~2011, every lobbyist shall file registrations required by Section~~
11 ~~4250 of Title 74 of the Oklahoma Statutes and reports required by~~
12 ~~this section by Internet access only at the address specified by the~~
13 ~~Commission. The reports shall include the activities specified in~~
14 ~~this section. The reports shall be filed whether or not the person~~
15 ~~has taken any action which is required to be reported pursuant to~~
16 ~~the provisions of this section. The reports shall be filed between~~
17 ~~the first and twentieth day of January and the first and twentieth~~
18 ~~day of July of each calendar year which shall cover the activities~~
19 ~~during the period following the last report.~~

20 ~~(b) Disclosure of things of value. The report shall be signed~~
21 ~~by the lobbyist, who shall attest to the report's accuracy and~~
22 ~~veracity, and the signature shall be notarized. The reports shall~~
23 ~~include the information specified in Subsection (d) of this section~~
24 ~~for things of value given to an elective officer or the immediate~~

1 ~~family member of an elective officer by the lobbyist or any lobbyist~~
2 ~~principal by whom the lobbyist is employed or retained, the costs of~~
3 ~~which exceed ten dollars (\$10) in the aggregate or things of value~~
4 ~~given to a state officer, excluding an elective officer, state~~
5 ~~employee, or the immediate family member of a state officer,~~
6 ~~excluding an elective officer, or a state employee, by the lobbyist~~
7 ~~or any lobbyist principal by whom the lobbyist is employed or~~
8 ~~retained, the costs of which exceed ten (\$10) in the aggregate~~
9 ~~during a six month period beginning January 1 and ending June 30 or~~
10 ~~beginning July 1 and ending December 31.~~

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

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

21 (2) things of value given to the recipient by any director,
22 stockholder, partner, agent, affiliate, member, employee or officer
23 of a lobbyist principal if the donor is excepted in subparagraph (D)
24 of Paragraph (2) from the definition of "anything of value" in

1 Section 2 of Chapter 1 of this title, or if there exists between the
2 recipient and the donor a close personal relationship of long
3 standing in which the mutual exchange of gifts on special occasions,
4 such as holidays or anniversaries, has become customary.

5 ~~A thing or things of value given by a lobbyist; the lobbyist~~
6 ~~principal by whom the lobbyist is employed or retained; or a~~
7 ~~stockholder, partner, agent, affiliate, member, employee or officer~~
8 ~~of the lobbyist principal or lobbyist principals by whom the~~
9 ~~lobbyist is employed or retained are aggregated for purposes of the~~
10 ~~disclosure threshold and calendar year limits, regardless of how the~~
11 ~~thing or things of value are funded if, and only if, the thing or~~
12 ~~things of value are given at the specific direction, and on behalf~~
13 ~~of, the lobbyist principal. Lobbyist principals of contract~~
14 ~~lobbyists shall not be aggregated together for purposes of this~~
15 ~~provision. If more than one lobbyist is retained or employed by a~~
16 ~~lobbyist principal, the disclosure and calendar year limits of each~~
17 ~~lobbyist to register on behalf of the lobbyist principal for a~~
18 ~~calendar year are aggregated with each additional lobbyist, employed~~
19 ~~or retained by the same lobbyist principal. Lobbyist principals~~
20 ~~retaining or employing more than one lobbyist may designate one~~
21 ~~lobbyist to file the reports required by this section. Such reports~~
22 ~~shall include all the information required for things of value given~~
23 ~~by all lobbyists, as well as by others who are giving on behalf of~~
24 ~~the lobbyist principal. If the single report method is used, other~~

1 ~~lobbyists representing the same lobbyist principal shall indicate on~~
2 ~~their reports the identity of the individual reporting on behalf of~~
3 ~~them for the lobbyist principal, but shall not list those items on~~
4 ~~their own report.~~

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

8 ~~(1) The full name and electronic mailing address of the~~
9 ~~lobbyist or other person filing the report;~~

10 ~~(2) The name and position of the state officer or state~~
11 ~~employee to whom the thing of value was given;~~

12 ~~(3) The date the thing of value was given;~~

13 ~~(4) The nature of the thing of value given;~~

14 ~~(5) The amount of the expenditure made by the lobbyist or~~
15 ~~lobbyist principal for the thing of value; and~~

16 ~~(6) The name of the lobbyist principal or lobbyist principals~~
17 ~~on whose behalf the thing of value was given, if any.~~

18 ~~(e) Prohibition against dividing costs among lobbyist~~
19 ~~principals or other lobbyists. For purposes of reporting things of~~
20 ~~value as required by this section, a lobbyist giving a thing of~~
21 ~~value on behalf of more than one lobbyist principal shall not divide~~
22 ~~the cost of the thing of value by the number of participating~~
23 ~~lobbyist principals. Nor may a lobbyist divide the cost of a thing~~
24 ~~of value with other lobbyists for any single expenditure.~~

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

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

18 ~~(h) Exception for campaign contributions. Any information~~
19 ~~required to be reported pursuant to the provisions of Chapter 10 of~~
20 ~~this title is not required to be reported pursuant to the provisions~~
21 ~~of Sections 2 and 3 of this chapter.~~

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

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

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

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

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

14 to a state officer or state employee, who is an officer or
15 director of the organization, when receipt of anything of value
16 results from the state officer or state employee attending a
17 function, meeting or seminar on behalf of, or as a representative
18 of, the organization.

19 SECTION 3. AMENDATORY Rule 257:23-1-3 of the Rules of
20 the Ethics Commission (74 O.S. Supp. 2010, Ch. 62, App.), is amended
21 to read as follows:

22 Rule 257:23-1-3. Any person who:

23 (1) is employed or retained by another for financial or other
24 compensation to perform services that include promoting, opposing or

1 attempting to influence any executive or administrative action by a
2 governmental entity, including, but not limited to, the promulgation
3 of rules and regulations and the setting of rates, other than an
4 individual whose lobbying activities are only incidental to, and are
5 not a significant part of, the services provided by such individual
6 to the client;

7 (2) is seeking to do business or doing business with a
8 governmental entity; or

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

11 ~~shall be required to file, by paper form, the same report required~~
12 ~~to be filed by lobbyists by Section 2 of this chapter if, and only~~
13 ~~if, such person gives~~ be prohibited from giving anything or things
14 of value to a state officer or state employee ~~the cost of which~~
15 ~~exceeds fifty dollars (\$50.00) in the aggregate during a six-month~~
16 ~~period beginning January 1 and ending June 30 or beginning July 1~~
17 ~~and ending December 31.~~ This provision shall not apply, however, to
18 things of value received as a result of or arising out of employment
19 by, or doing business with, a lobbyist or lobbyist principal; and
20 things of value received from any director, stockholder, partner,
21 agent, affiliate, member, employee or officer of a lobbyist
22 principal as a result of a personal or casual relationship with the
23 recipient. Provided further, this provision shall not apply to

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1 things of value given to a public member when not given as a result
2 of the public member's status as a public member.

3 SECTION 4. This act shall become effective November 1, 2011.

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