


1.15.13 #33

TO: The Honorable Chairman and Members of the
Board of County Commissioners

FROM: James L. Bennett, County Attorney 

SUBJECT: Status of Amendments to the Pinellas County Lobbying Ordinance

DISTRIBUTION: Jewel White, Managing Assistant County Attorney

DATE: January 15, 2013

The County ordinance related to lobbying is being considered for amendment to include recommendations made by the last Charter Review Commission. These changes include:

- Broadening the definition of "lobbying" to include any kind of contact, whether it be oral, written or electronic;
- Broadening the reporting requirements for lobbying activity to include lobbying initiated outside County offices;
- Providing for the reporting of any meeting between a lobbyist and a County commissioner to each of the other commissioners; and
- Adding a penalty that provides for debarment of lobbyists for certain time periods for repeated violations of the ordinance.

The County Attorney's Office is working in conjunction with the Communications Department to facilitate the enhanced reporting requirements. For instance, the County website is being upgraded to provide for online registration of lobbyists, as well as online reporting of lobbying activity. These changes will allow lobbyists to register or report lobbying activity via smart phones or other similarly enabled devices. Similarly, it is expected that notification of lobbying activity to the commissioners, as well as the public, will be automated in a manner that will provide for virtually simultaneous notification.

While many of the proposed changes are a function of enhanced website capability, an amendment to the current ordinance is also required to facilitate the changes. If the Board wishes to proceed, then the ordinance will be brought back for authority to advertise a public hearing. A draft copy of the ordinance noting the proposed changes is attached.

JLB:MJW:sme

Attachment

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ORDINANCE NO. 13-

AN ORDINANCE OF THE COUNTY OF PINELLAS RELATED TO LOBBYING; CREATING A SECTION RELATED TO FINDINGS AND INTENT; MODIFYING REGULATIONS RELATED TO REGISTRATION OF LOBBYISTS AND LOBBYING CONTACTS; REVISING RELATED PENALTIES; RENUMBERING CODE SECTIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR AN EFFECTIVE DATE; PROVIDING FOR MODIFICATIONS THAT MAY ARISE FROM REVIEW OF THE ORDINANCE AT PUBLIC HEARING AND WITH RESPONSIBLE AUTHORITIES.

WHEREAS, the United state Supreme Court has long held that the implementation of reasonable regulations related to lobbying do not violate the freedoms guaranteed by the First Amendment to speak, publish and petition the government; and

WHEREAS, courts have recognized as legitimate interests the protection of voters in appraising the integrity and performance of officeholders and candidates, as well as the “self-protection” of elected officials in the face of coordinated efforts to influence legislation; and

WHEREAS, each of the fifty states and the federal government have enacted regulations related to lobbying, as have numerous local governments throughout the country; and

WHEREAS, the State of Florida has a long tradition of open government as set forth in the Florida Constitution, guaranteeing its citizens’ rights to transparency and integrity in the government decision making process at all levels; and

WHEREAS, the Board of County Commissioners wishes to clarify its regulations related to lobbying to require disclosure of lobbying activities both at county offices and outside of such offices, and additionally make other modifications to its ordinance as recommended by the Pinellas County Charter Review Commission.

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF PINELLAS COUNTY, FLORIDA:

SECTION 1. Article IX, Chapter 26, of the Pinellas County Code is hereby amended and renumbered to read as follows:

Sec. 26-271. – Findings and intent.

The intent of the Board of County Commissioners in adopting an ordinance relating to lobbying is to protect rights guaranteed by the First Amendment to the United

States Constitution to speak, publish and petition governmental officials, while at the same time protecting the citizens' rights to open government as guaranteed by sec. 24, Art. I, Florida Constitution. To that end, the Board finds it necessary to impose reasonable regulations prohibiting lobbying in only certain limited circumstances, while otherwise allowing open access to government officials. In balancing the important yet competing rights of its citizens protected by the federal and state constitutions and to promote transparency and integrity in the decision making process, the board finds it necessary to require disclosure of certain activities related to lobbying as more fully set forth herein.

Sec. 26-2721. - Definitions.

Compensation means any payment received or to be received by a lobbyist for the performance of lobbying activities. The compensation is a fee, salary, retainer, forbearance, forgiveness or any combination thereof.

Expenditure means a payment, distribution, loan, advance, reimbursement, deposit or anything of value made by a lobbyist or a principal for the purpose of lobbying.

Lobbying means ~~meeting privately communicating, directly or indirectly, outside a~~ duly noticed public meeting or hearing on the record with a member of the board of county commissioners, for the purpose of encouraging the passage, defeat or modification of any item pending before the county commission. Lobbying shall include all forms of communication, whether oral, written, or electronic.

Lobbyist means a person who for compensation engages in lobbying as defined in this article.

Principal means the person, firm, corporation or other entity which has retained or employed a lobbyist.

Sec. 26-2732. - Registration of lobbyists.

All lobbyists shall ~~sign in at the time of the lobbying in a notebook for that purpose in the board of county commissioners reception area. Simultaneously, they shall also register and re-register, as applicable, prior to January 1 of each year. Registration forms shall be in the manner designated by the county administrator on a registry of lobbyists maintained and available for public inspection in the board records section of the Board of County Commissioners' clerk's office.~~ The lobbyist shall provide his or her name, business address, the name and business address of each principal represented, the general and specific areas of legislative interest, and the nature and extent of any direct

business association or partnership with any current member of the board. ~~The clerk shall provide forms on which the lobbyists may supply the aforesaid information. In the event any lobbying meeting as defined herein occurs outside of county offices in Clearwater, the lobbyist shall register within 30 days following the lobbying activity.~~

Sec. 26-274. - Prohibition of lobbying in certain procurement matters.

Lobbying shall be prohibited on all county competitive selection processes and contract awards as set forth in section 2-189, Pinellas County Code.

Sec. 26-275. – Record of lobbying contacts.

All lobbyists shall sign the visitor logs, maintained and available online and in the office reception areas of the county commission, prior to meeting with a county commissioner. The lobbyist shall state his or her name; the name of each principal, if applicable, represented in the course of the particular contact; and the topic of the contact. Notice of any such meeting shall be transmitted to each county commissioner. The visitor logs shall be maintained by the clerk of court and shall be available for public inspection online and in the office of the clerk. In the event that a lobbyist or principal engages in lobbying which is initiated outside of county offices, the lobbyist or principal shall provide the information required above to the county department or office designated by the county administrator within 48 hours of such lobbying contact.

Sec. 26-2763. - Statement of lobbying expenditures.

A lobbyist shall annually on or before January 1 of each year submit to the clerk's office a signed statement under oath listing all lobbying expenditures for the preceding calendar year, the sources of the funds, and an itemization as to the amount expended for each member of the board of county commissioners by each registered lobbyist. The statement shall be made on forms provided by the clerk's office.

The clerk of the board of county commissioners shall maintain the expenditure statements in a book or file which shall be open for public inspection. On January 1 of each year, the clerk shall notify any registered lobbyist who has failed to file the required report. Any lobbyist who has further failed to file by February 1, in addition to any other penalty provided for herein, shall not be permitted to reregister as a lobbyist or to engage in any further lobbying activities.

Sec. 26-2774. - Exceptions.

- (a) The following persons shall not be required to register:

- (1) An elected official or government employee acting in his official capacity or in connection with his job responsibilities.
 - (2) A person who appears at the specific request or under compulsion of the commission, board or staff member.
 - (3) Expert witnesses or other persons who give testimony about a particular matter or measure but do not advocate passage or defeat of the matter or measure or any amendment thereto.
 - (4) Any person who appears at a public hearing or administrative proceeding or quasi-judicial proceeding before the county commission, any board or staff member and has no other communication on the matter or subject of the public hearing, administrative hearing or quasi-judicial proceeding.
 - (5) Any person in contractual privity with the county who appears only in his or her official capacity.
- (b) This article shall not apply to discussion or negotiations on matters in litigation or in matters in anticipation of litigation.

Sec. 26-2785. - Violations; penalties.

- (a) A first violation of the provisions of this article shall result in the issuance of a warning by the county attorney's office. The penalties for any subsequent violations shall be as provided in section 1-8 of the County Code.
- (b) Any person who violates the provisions of this article more than once during a twelve-month period may be prohibited from lobbying as follows: A second violation may result in a prohibition of one (1) year; a third violation may result in a prohibition of two (2) years.
- (c) The validity of any action or determination of the commission, board or staff shall not be affected by the failure of any person to comply with the provisions of this article.

SECTION 2. Severability. If any Section, Subsection, sentence, clause, phrase, or provision of this Ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such holding shall not be construed to render the remaining provisions of this Ordinance invalid or unconstitutional.

SECTION 3. Inclusion in Code. It is the intention of the Board of County Commissioners that the provisions of this Ordinance shall become and be made a part of the Pinellas County Code and that the sections of this Ordinance may be renumbered or relettered and the word “ordinance” may be changed to section, article or such other appropriate word or phrase in order to accomplish such intentions.

SECTION 4. Filing of Ordinance; Effective Date. Pursuant to Section 125.66, Fla. Stat., a certified copy of this Ordinance shall be filed with the Department of State by the Clerk of the Board of County Commissioners within ten (10) days after enactment by the Board of County Commissioners. This Ordinance shall become effective upon filing of the ordinance with the Department of State.