

ORDINANCE NO. 2001-15

AN ORDINANCE OF THE BOARD OF COUNTY
COMMISSIONERS OF BROWARD COUNTY, FLORIDA,
RELATING TO LOBBYING ACTIVITIES; AMENDING
CHAPTER 1, ARTICLE XIII OF THE BROWARD COUNTY
CODE OF ORDINANCES; AMENDING SECTION 1-260,
PROVIDING FOR TITLE AND EXPANDING INTENT AND
PURPOSES; AMENDING SECTION 1-261, PROVIDING FOR,
MODIFYING, AND DELETING DEFINITIONS; AMENDING
SECTION 1-262, PROVIDING FOR CHANGES RELATING TO
REGISTRATION AND STATEMENT OF EXPENSES;
REPEALING SECTION 1-263; REDESIGNATING AND
READOPTING SECTION 1-264; CREATING A NEW
SECTION 1-264, PROVIDING FOR DISCLOSURE OF
CONTINGENCY FEES; AMENDING SECTION 1-265,
PROVIDING FOR PENALTIES; CREATING A NEW SECTION
1-266, PROHIBITING CERTAIN TYPES OF COMMUNICATION;
CREATING A NEW SECTION 1-267, PROVIDING FOR
RECORD KEEPING RESPONSIBILITIES; PROVIDING FOR
SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE;
AND PROVIDING FOR AN EFFECTIVE DATE.

(Sponsored by the Board of County Commissioners)

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF BROWARD
COUNTY, FLORIDA:

Section 1. Section 1-260 of Article XIII of Chapter 1, Broward County Code of Ordinances, is amended to read:

Sec. 1-260. Title: Intent and purpose.

(a) Sections 1-260 through 1-266 of Chapter 1, Broward County Code, may be cited as the "Broward County Lobbyist Registration Act."

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1 (b) The Board of County Commissioners of Broward County, Florida, hereby
2 determines and declares that the operation of responsible government requires that the
3 fullest opportunity be afforded to the people to petition their county government for the
4 redress of grievances and to express freely to the elected officials their opinions on
5 legislation and other actions and issues; and that to preserve and maintain the integrity of
6 the governmental decision-making process, it is necessary that the identity, expenditures,
7 fees, and activities of certain persons who engage in efforts to influence eCounty
8 eCommissioners, decision-making bodies under the jurisdiction of the Board of County
9 Commissioners, and certain County employees on matters within their official jurisdictions,
10 either by direct communication to such eCommissioners, decision-making bodies, or County
11 employees, or by solicitation of others to engage in such efforts, be publicly and regularly
12 disclosed.

13 Section 2. Section 1-261 of Chapter 1, Broward County Code of Ordinances, is
14 amended to read:

15 **Sec. 1-261. Definitions.**

16 As used in this article, unless the context otherwise indicates:

17 (a) Board means the Board of County Commissioners of Broward County, Florida.
18 (a)(b) Lobbying means communicating directly or indirectly, either in person, by
19 telephone or by letter, or any other form of communication, with any eCounty eCommissioner
20 ~~for the purpose of influencing legislation or any member of any decision-making body under~~
21 ~~the jurisdiction of the Board, or any County employee, where the lobbyist seeks to~~
22 ~~encourage the passage, defeat, modification, or repeal of any item which may be presented~~

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1 for a vote before the Board of County Commissioners, or any decision-making body under
2 the jurisdiction of the Board, which may be presented for consideration by a County
3 employee as a recommendation to the Board or decision-making body or any employee
4 making a final County procurement decision.

5 (b) ~~Legislation means any ordinance, resolution or proposal of any kind which is~~
6 ~~the subject of present or prospective action by the board of county commissioners.~~

7 (c) *Person* means any individual, business, corporation, association, firm,
8 partnership, nonprofit organization, or other organization or group.

9 (d) *Lobbyist* means any person who engages in lobbying either directly or indirectly
10 by the solicitation of others to engage in lobbying activities ~~is employed and receives~~
11 ~~payment or who contracts for economic consideration for the purpose of lobbying, or a~~
12 ~~person who is principally employed for governmental affairs by another person or~~
13 ~~governmental entity to lobby on behalf of that other person or governmental entity.~~ Any
14 person who, in his or her individual capacity, merely communicates with the eCounty
15 eCommission, ~~or a eCounty eCommissioner, a decision-making body under the jurisdiction~~
16 ~~of the Board of County Commissioners, or any County employee, for the purpose of self-~~
17 ~~representation, without compensation or reimbursements, to express support of or opposition~~
18 ~~to any legislation item which may be presented for a vote before the Board, and who shall~~
19 ~~so declare to the commissioner or commission person or body with whom he or she~~
20 ~~discusses any proposed legislation such item, shall not be required to register as a lobbyist.~~
21 Additionally, any individual who engages in lobbying as a volunteer, without payment of any

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1 compensation or reimbursement of expenses, either directly or indirectly, shall not be
2 required to register as a lobbyist.

3 (e) *Employer* means any person providing compensation of any kind to a lobbyist in
4 consideration for his or her performance of lobbying activities.

5 Section 3. Section 1-262 of Chapter 1, Broward County Code of Ordinances, is
6 amended to read:

7 **Sec. 1-262. Lobbying registration and statements.**

8 (a) *Registration Statement Required.* Every lobbyist shall file with the eCounty
9 Administrator the following information:

10 (1) Prior to engaging in lobbying activities, a registration statement under oath
11 containing the following information:

12 a. The lobbyist's full name, residence address, business address, and
13 nature of business.

14 b. The full name and address of his or her employer, if any.

15 c. The general and specific legislative subject matters which the lobbyist
16 seeks to influence.

17 d. The extent of any direct business association by the lobbyist with any
18 current elected or appointed official or employee of Broward County.

19 For the purposes of this article, the term "direct business association"
20 shall mean any mutual endeavor undertaken for profit or compensation.

21 e. A lobbyist representing a group, association, or organization shall, prior
22 to engaging in lobbying, receive appropriate authorization from said

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1 group, association, or organization to lobby on its behalf upon a
2 particular subject matter. A copy of the applicable minutes, motion, or
3 other documentation of action shall be attached to the statements
4 required by paragraphs (1) and (2) of this subsection (a).

5 (2) A lobbyist shall annually submit to the ~~e~~County ~~a~~Administrator's ~~e~~Office a
6 signed statement under oath, ~~listing~~ disclosing all lobbying expenditures,
7 ~~contingency fees~~, and ~~the~~ sources from which funds for making such
8 expenditures ~~and paying such contingency fees~~ have come. The statement
9 of expenditures ~~required herein~~ for the period from July first to June thirtieth,
10 shall be filed no later than July fifteenth of each year. Lobbying expenditures
11 shall not include personal expenses for lodging, meals, and travel. Said
12 statements shall be rendered in the form provided by the County Attorney's
13 Office of general counsel and shall be open to public inspection. A statement
14 shall be filed even if there have been no expenditures during a reported
15 period. A public official acting in his or her official capacity shall not be
16 required to file the statement required by this subsection.

17 (3) Statements shall be filed not later than 5 p.m. on the date the statement is
18 due. However, any statement that is postmarked by the United States Postal
19 Service no later than midnight of the due date shall be deemed to have been
20 filed in a timely manner, and a certificate of mailing obtained from and dated
21 by the United States Postal Service at the time of the mailing, or a receipt from
22 an established courier company which bears a date on or before the due date.

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1 shall be proof of mailing in a timely manner. The County Administrator shall
2 provide for a procedure by which a lobbyist who fails to timely file a statement
3 shall be notified and assessed fines. The procedure shall provide for the
4 following:

- 5 a. Upon determining that the statement is late, the person designated to review
6 the timeliness of statement shall immediately notify the lobbyist as to the
7 failure to timely file the statement and that a fine is being assessed for each
8 late day. The fine shall be Fifty Dollars (\$50) per day for each late day.
- 9 b. Upon receipt of the statement, the person designated to review the timeliness
10 of statement shall determine the amount of the fine due based upon the
11 earliest of the following:
 - 12 (1) When a statement is actually received.
 - 13 (2) When the statement is postmarked.
 - 14 (3) When the certificate of mailing is dated.
 - 15 (4) When the statement from an established courier company is dated.
- 16 c. Such fine shall be paid within twenty (20) days after receipt of the notice of
17 payment due, unless appeal is made to the Commission.
- 18 d. A fine shall not be assessed against a lobbyist the first time any statement for
19 which the lobbyist is responsible are not timely filed. However, to receive the
20 one-time fine waiver, all statement for which the lobbyist is responsible must
21 be filed within twenty (20) days after receipt of notice that any statements have

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1 not been timely filed. A fine shall be assessed for any subsequent late-filed
2 statement.

3 e. Any lobbyist may appeal or dispute a fine, based upon unusual circumstances
4 surrounding the failure to file on the designated due date, and may request
5 and shall be entitled to a hearing before the Commission, which shall have the
6 authority to waive the fine in whole or in part for good cause shown. Any such
7 request shall be made within twenty (20) days after receipt of the notice of
8 payment due. In such case, the lobbyist shall, within the 20-day period, notify
9 the person designated to review the timeliness of statements in writing of his
10 or her intention to bring the matter before the Commission.

11 (b) *List of Current Lobbyists.* The eCounty aAdministrator's eOffice shall keep a
12 current list of registered lobbyists and their respective reports required under this article, all
13 of which shall be open for public inspection.

14 (c) *List of Employers.* A lobbyist shall file a separate registration statement for
15 each employer on whose behalf he or she lobbies.

16 (d) *Partial Year Filing Required.* Discontinuance of lobbying activities during a
17 year shall not relieve the lobbyist from the requirement of filing the statement required by
18 subsection (a)(2) above for that portion of the year during which the lobbyist was engaged
19 in lobbying activities.

20 Section 4. Section 1-263 of Chapter 1, Broward County Code of Ordinances, is
21 repealed:

22 **Sec. 1-263. Persons excluded.**

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24 underscored type are additions.

1 The following persons shall not be required to file a lobbying statement:

2 A public official acting in his official capacity:

3 Section 5. Section 1-264 of Chapter 1, Broward County Code of Ordinances, is
4 redesignated as Section 1-263 and is readopted to read:

5 **Sec. 1-2643. Prohibition on use of lobbying statements.**

6 No information obtained from lobbying statements required by this article shall be sold
7 or utilized by any person for the purpose of soliciting campaign contributions or selling tickets
8 to a testimonial or similar fund-raising affair or for commercial purposes.

9 Section 6. Section 1-264 of Chapter 1, Broward County Code of Ordinances, is
10 created to read:

11 **Sec. 1-264. Contingency fees; disclosure; penalties.**

12 (a) "Contingency fee" means a fee, bonus, commission, or nonmonetary benefit
13 as compensation which is dependent or in any way contingent on the enactment, defeat,
14 modification, or other outcome of any specific action of the Board of County Commissioners.

15 (b) A lobbyist shall disclose any compensation received in the form of contingency
16 fees in the annual statement filed pursuant to Section 1-262 (a)(2).

17 (c) In addition to the penalties provided in Section 1-265, any knowing or
18 intentional violation of this section shall be punishable as provided by law.

19 Section 7. Section 1-265 of Chapter 1, Broward County Code of Ordinances, is
20 amended to read:

21 **Sec. 1-265. Penalties.**

22 Violation of any provision of this article shall be punishable as provided by law.

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1 (a) The County Attorney or County Administrator, or their designee, shall be
2 informed of any person engaged in lobbying activities who has failed to comply with the
3 registration, reporting requirements and prohibitions of this act, and, in each such instance,
4 shall conduct such investigation as he or she shall deem necessary under the
5 circumstances. The results of each investigation shall be reported to the Board of County
6 Commissioners.

7 (b) The Board of County Commissioners may warn, reprimand, or censure the
8 violator or may suspend or prohibit the violator from appearing on behalf of any employer
9 before the Board or any decision-making body under the jurisdiction of the Board or from
10 otherwise lobbying for any employer in any fashion for a period of time; provided, however,
11 that any suspension or prohibition may not exceed a period of two (2) years, and no sanction
12 shall be imposed unless the lobbyist allegedly in violation has been afforded reasonable
13 notice and an opportunity to be heard. The penalties provided in this section shall be the
14 exclusive penalties imposed for violations of the registration and reporting requirements of
15 this act, except as provided in 1-264(c). The intentional failure or refusal of any lobbyist to
16 comply with any order of the Board suspending or prohibiting the lobbyist from lobbying shall
17 be punishable as provided by law and shall otherwise be subject to such civil remedies as
18 the County may pursue, including injunctive relief.

19 (c) The validity of any action taken by the Board, County employees, or any
20 decision-making body under the jurisdiction of the Board, shall not be affected by the failure
21 of any person to comply with the provisions of this article.

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1 Section 8. Section 1-266 of Chapter 1, Broward County Code of Ordinances, is
2 created to read:

3 **Sec. 1-266. Cone of silence.**

4 (a) "Cone of Silence" means a prohibition on any communication regarding a
5 particular Request for Proposals (RFP), Request for Letters of Interest (RLI), bid, or other
6 competitive solicitation between:

7 (1) any person who seeks an award therefrom, including a potential vendor or
8 vendor's representative, and
9 (2) any County Commissioner or the Commissioner's staff, the County
10 Administrator, Deputy and Assistants to the County Administrator, and their
11 respective support staff, or any person appointed by the County Commission
12 to evaluate or recommend selection in such procurement process.

13 Notwithstanding the foregoing, the Cone of Silence shall not apply to communications with
14 the County Attorney and his or her staff, or with designated County staff who are not serving
15 on the particular Selection and Negotiation Committee, to obtain clarification or information
16 concerning the subject solicitation. Further, nothing herein shall prohibit a County
17 Commissioner, the County Commissioner's staff, and other County employees from
18 communicating with each other. For purposes of this section, "vendor's representative"
19 means an employee, partner, officer, or director of a potential vendor, or consultant, lobbyist,
20 or actual or potential subcontractor or sub-consultant of a vendor.

21 (b) A Cone of Silence shall be applicable to each RFP, RLI, bid, or other
22 competitive solicitation upon short listing. At the time of imposition of the Cone of Silence,

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1 the County Administrator or the Administrator's designee shall provide public notice of the
2 Cone of Silence. The County Administrator shall include in any advertisement and public
3 solicitation for goods and services a statement disclosing the requirements of this section.

4 (c) The Cone of Silence shall terminate at the time the Board of County
5 Commissioners votes to award or approve a contract, to reject all bids or responses, or
6 otherwise takes action which ends the solicitation.

7 (d) Nothing contained herein shall prohibit any potential vendor or vendor's
8 representative:

- 9 (1) from making public presentations at duly noticed pre-bid conferences or before
10 duly noticed selection and negotiation committee meetings;
- 11 (2) from engaging in contract negotiations during any duly noticed public meeting;
- 12 (3) from making a public presentation to the County Commission during any duly
13 noticed public meeting; or
- 14 (4) from communicating in writing with any County employee or official for
15 purposes of seeking clarification or additional information, subject to the
16 provisions of the applicable RFP, RLI, or bid documents.

17 The potential vendor or vendor's representative shall file a copy of any written
18 communication with the County Administrator who shall make copies available to the public
19 upon request.

20 (e) Nothing contained herein shall prohibit a County Commissioner or his or her
21 respective staff from initiating contact with a potential vendor or vendor's representative and
22 subsequent communication related thereto for the purpose of obtaining further information

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1 regarding the RFP, RLI, bid, or competitive solicitation. Such contact shall be in writing and
2 shall be provided to the members of the applicable Selection and Negotiation Committee,
3 including any response thereto.

4 (f) In addition to the penalties provided in Section 1-265, any violation of this
5 section by a potential vendor or vendor's representative or County staff, as defined in
6 section (a)(2):

- 7 (1) shall render any RFP award, RLI award, or bid award to said potential vendor
8 or vendor's representative voidable, at the sole discretion of the Board of
9 County Commissioners; and
- 10 (2) may subject the potential vendor or vendor's representative to debarment in
11 accordance with Chapter 21, Part IX, of the Broward County Administrative
12 Code.

13 Section 9. Section 1-267 of Chapter 1, Broward County Code of Ordinances, is
14 created to read:

15 **Sec. 1-267. Registration of contacts.**

16 All persons shall sign, at each time of contact, the contact logs maintained and
17 available in the office reception areas of the Board of County Commissioners and each
18 department of County Government. The person shall state his or her name; the name of
19 each employer, if any, represented in the course of the particular contacts; with whom the
20 contact is made; and the topic of the contact. The contact logs shall be transmitted to the
21 County Administrator at the end of each quarter.

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1 Section 10. SEVERABILITY.

2 If any section, sentence, clause, or phrase of this Ordinance is held to be invalid or
3 unconstitutional by any court of competent jurisdiction, then said holding shall in no way
4 affect the validity of the remaining portions of this Ordinance.

5 Section 11. INCLUSION IN CODE.

6 It is the intention of the Board of County Commissioners that the provisions of this
7 Ordinance shall become and be made a part of the Broward County Code; and that the
8 sections of this Ordinance may be renumbered or relettered and the word "ordinance" may
9 be changed to "section," "article," or such other appropriate word or phrase in order to
10 accomplish such intentions.

11 Section 12. EFFECTIVE DATE.

12 This Ordinance shall become effective upon filing with the Department of State.

14 ENACTED May 8, 2001

15 FILED WITH DEPARTMENT OF STATE May 24, 2001

16 EFFECTIVE May 24, 2001

18 PURPOSE: This Ordinance expands the activities for which a person must register as a
19 lobbyist with Broward County and the penalties for violating the registration and reporting
20 requirements of the Broward County Lobbyist Registration Act. This Ordinance also creates
21 a Cone of Silence to prohibit certain communications after the County advertises a bid,
22 request for proposals, or request for letters of interest.

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STATE OF FLORIDA
COUNTY OF BROWARD

I HEREBY CERTIFY that the above and
foregoing is a true and correct copy of
Ordinance No. 2001-15
as recorded in Board of County Commission
records.

WITNESS my hand and official seal this
25th day of May A.D. ~~2001~~
County Administrator

BY Matthew J. Morgan D.C.

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