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10/2/03

2003 HOUSE INDUSTRY, BUSINESS AND LABOR

HB 1244

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Deanna Hall
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10/2/03
Date

2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1244

House Industry, Business and Labor Committee

☐ Conference Committee

Hearing Date 1/21/03

Tape Number	Side A	Side B	Meter #
4	x		10.1-50.1
Committee Clerk Signature <i>Judith Hammer</i>			

Minutes: **Chairman Keiser** opened the hearing on HB 1244.

Rep. Wrangham, District 8 introduced HB 1244 which relates to exceptions from the definition of a lobbyist. (See attached) Specifically, Subsection 2. f. is the added language to the bill.

Rep. Johnson asked whether or not people have not come forth to testify because they thought they had to be a registered lobbyist, to which **Rep. Wrangham** replied that he does believe there is a lot of uncertainty among business owners and their management teams regarding this issue

Rep. Kasper asked for clarification about the exclusion re: "management position".

Rep. Wrangham replied that the bill is not intended to deal with employees.

Marilyn Foss, Counsel for ND Banker's Association, appeared in support of HB 1244 and gave extemporaneous testimony. **Rep. Severson** asked Foss if there have been problems between the Secretary of State's Office and some lobbyists in the past regarding whether or not they had to register if they were appearing on their own behalf to which Foss replied she couldn't attest to this exactly but she knows there is confusion. **Rep. Ruby** asked if there are instances where

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Dan Hall
Operator's Signature

1/21/03
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House Industry, Business and Labor Committee

Bill/Resolution Number HB 1244

Hearing Date 1/21/03

larger companies with managers that serve as government relations who then would not have to be licensed as a lobbyist who at this time probably are. Foss stated that large entities with government relations personnel certainly know and are well aware of lobbyist registration.

Rep. Ekstrom asked for clarification regarding whether a lobbyist can "take off his hat" and speak to a legislator as a citizen, a constituent, not as a lobbyist. Foss said that there are certainly times that she personally does this.

Mick Gross, CEO of West River Telecommunications, Hazen, ND, spoke extemporaneously in support of HB 1244. Stating that it is part of his job description to represent his company in legislative endeavors, he asked that those people in positions like his not be asked to register as a lobbyist, if they are not appearing on behalf of other similar businesses.

Al Jaeger, Secretary of State, appeared in opposition to HB 1244. (See attached) He stated that it is a misconception that individuals cannot appear on their behalf. This is untrue. Someone who is appearing on behalf of someone else is by definition, a lobbyist. At present 482 lobbyists representing 762 organizations are currently registered with the Secretary of State's Office. In the off year there were 269 lobbyists representing 419 organizations. Two years 629 lobbyists represented 946 organizations. The Secretary of State is mainly concerned with this HB 1244's reference to business since in the Secretary of State's office, business means corporation, whether for profit, not for profit, limited liability company, cooperatives etc. When in doubt, he encourages people to pay \$20 and register.

Rep. Froseth asked what the penalty is for appearing as a lobbyist without being registered.

Jaeger stated that an unregistered lobbyist is guilty of an infraction and the matter is referred to

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1/21/03

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House Industry, Business and Labor Committee

Bill/Resolution Number HB 1244

Hearing Date 1/21/03

the office of the States Attorney. It is Jaeger's opinion that the current statutes are working and that there isn't a need to make changes at this time.

As no one else was present to testify in opposition to HB 1244, the hearing was closed.

Rep. Froseth moved a do not pass. **Rep. Ekstrom** seconded the motion. **Rep. Thorpe** concurred with the Secretary of State, things are working fine now and do not need to be tweaked. The roll call vote results were 13-1-0. **Rep. Tieman** will carry this bill on the floor.

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Dan Hall
Operator's Signature

1/21/03
Date

Date: 1/21/03
Roll Call Vote #: 1

2003 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1244

House Industry, Business & Labor Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken DO NOT PASS.

Motion Made By Froese Seconded By Ekstrom

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser	✓		Rep.Boe	✓	
Rep.Severson, Vice-Chair	✓		Rep.Ekstrom	✓	
Rep.Dosch	✓		Rep.Thorpe	✓	
Rep. Froese	✓		Rep. Zaiser	✓	
Rep. Johnson	✓				
Rep.Kasper	✓				
Rep. Klein	✓				
Rep. Nottlestad	✓				
Rep. Ruby	✓				
Rep.Tieman	✓				

Total (Yes) 13 No 1

Absent 0

Floor Assignment Tieman

If the vote is on an amendment, briefly indicate intent:

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Doreen Hall Smith 1/21/03
Operator's Signature Date

REPORT OF STANDING COMMITTEE (410)
January 22, 2003 7:31 a.m.

Module No: HR-12-0880
Carrier: Tieman
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE
HB 1244: Industry, Business and Labor Committee (Rep. Kelser, Chairman)
recommends **DO NOT PASS** (13 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING).
HB 1244 was placed on the Eleventh order on the calendar.

(2) DESK, (3) COMM

Page No. 1

HR-12-0880

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Dannan Hall
Operator's Signature

10/2/03
Date

2003 TESTIMONY

HB 1244

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Deanna Holladay
Operator's Signature

10/2/03
Date

HOUSE BILL 1244
TESTIMONY BY REPRESENTATIVE DWIGHT WRANGHAM

Dear Chairman Keiser and House Industry, Business and Labor Committee

House bill 1244 adds a sentence to section 54-05.1-02 paragraph 2. Paragraph 2 applies to persons who by definition are not considered lobbyists.

Statement f, the added language, states "an individual who serves in a management position for a business if the individual is appearing on behalf of that business."

We are constantly striving to involve more individuals, citizens, in the legislative process. We as legislators like to hear opinions from the public, from the people who are in the trenches, from the people who are most directly effected by specific legislation.

This legislation is intended to make it perfectly clear that those individuals do not have to register as a lobbyist to share there thoughts with us when they are appearing on behalf of a business in which they in which they hold a management position.

Representative Dwight Wrangham

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Dwight Wrangham
Operator's Signature

10/2/03
Date

ALVIN A. JAEGER
SECRETARY OF STATE

HOME PAGE www.state.nd.us/sec



SECRETARY OF STATE

STATE OF NORTH DAKOTA
600 EAST BOULEVARD AVENUE DEPT 108
BISMARCK ND 58505-0500

January 21, 2003

PHONE (701) 328-2900
FAX (701) 328-2992

E-MAIL sec@state.nd.us

TO: Rep. George Kelser, Chairman,
and Members of the House Industry, Business, and Labor Committee

FR: Al Jaeger, Secretary of State

RE: HB 1244 - Exceptions to Lobbyist Registration

Since the passage of SB 2167 by the 1995 Legislative Assembly (Session Law, Chapter 496), this particular section of law, which defines the meaning of a lobbyist, has remained unchanged.

From our vantage point, the passage of that bill has achieved its intended purpose. That is, only a minimal number of questions are asked each year of the Secretary of State's office as to who has to register as a lobbyist.

As I understand it, the registration of lobbyists serves two purposes. One, it informs the legislature as to who is attempting to secure the passage or defeat of legislation. Two, it discloses to the public the names of who is attempting to secure the passage or defeat of legislation.

However, that would change somewhat under the "business" exception proposed in the bill. As defined in the Secretary of State's office, the word business includes every type of business structure that is registered, e.g., for-profit corporations, non-profit corporations, partnerships, limited liability partnerships, limited liability companies, etc.

Therefore, under the proposed exception, the number of registered lobbyists would greatly reduce. The reason the numbers would decrease is that a large percentage of the currently registered lobbyists are employed in some type of management position with a business. Consequently, they would no longer be required to register if this bill were to pass, which appears to be contrary to the long-standing intent of lobbyist registration that dates back to at least 1975.

For your reference, I have attached a copy of the current law governing lobbying.

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Donna Hallmark
Operator's signature

10/2/03
Date

HB 1244

STATE LAW PERTAINING TO LEGISLATIVE LOBBYING

Effective as of July 1, 2001
Office of the Secretary of State
State of North Dakota

The following laws are from the North Dakota Century Code (NDCC) and pertain to Legislative Lobbying. Although every attempt has been made for accuracy, the reprint of these laws does not carry the same authority or weight as the actual NDCC and should not be equated with the NDCC as an equal authority. This copy is only intended as a helpful resource and reference. For official and legal purposes, the official NDCC should be used.

54-05.1-01. LEGISLATIVE INTENT. It is hereby declared to be the intent of the legislative assembly to require that lobbyists register as such before engaging in lobbying activity and to require certain reporting procedures by lobbyist.

54-05.1-02. APPLICABILITY - MEANING OF LOBBYIST.

1. This chapter applies to any person who, in any manner whatsoever, directly or indirectly, performs any of the following activities:
 - a. Attempts to secure the passage, amendment, or defeat of any legislation by the legislative assembly or the approval or veto of any legislation by the governor of the state.
 - b. Attempts to influence decisions made by the legislative council or by an interim committee of the legislative council.
2. This chapter does not apply to any person who is:
 - a. A legislator.
 - b. A private citizen appearing on the citizen's own behalf.
 - c. An employee, officer, board member, volunteer, or agent of the state or its political subdivisions whether elected or appointed and whether or not compensated, who is acting in the person's official capacity.
 - d. Invited by the chairman of the legislative council, an interim committee of the legislative council, or a standing committee of the legislative assembly to appear before the council, interim committee, or standing committee for the purpose of providing information.
 - e. An individual who appears before a legislative committee for the sole purpose of presenting testimony on behalf of a trade or professional organization or a business or industry if the individual is introduced to the committee by the registered lobbyist for the trade or professional organization or the business or industry.
3. For the purposes of this chapter, persons required to register under this chapter because of the performance of the activities described in subsection 1 must be known as "lobbyists".

54-05.1-03. REGISTRATION AS A LOBBYIST - FEE - FILING OF INFORMATION - PUBLIC INSPECTION - CERTIFICATION OF REGISTRATION.

1. Any person who shall engage himself or be engaged by any other person either on a part-time or on a full-time basis for any of the activities listed in section 54-05.1-02, shall, before doing anything in furtherance of such purposes, register with the secretary of state and receive a certificate of registration and a distinctive lobbyist identification badge that must be prominently worn by the lobbyist when engaged in any of the activities listed in section 54-05.1-02 while on the capitol grounds. In lieu of wearing the official badge provided by the secretary of state, a lobbyist may wear a reasonable reproduction of the official badge that contains the name of the lobbyist and any of the following: the word lobbyist, the registration number of the lobbyist, or the organization name of the lobbyist in characters no smaller than one-quarter inch (6.35 millimeters). The registrant shall state in writing the registrant's full name and business address, the name and address of the person or persons upon whose behalf the registrant appears, all persons, corporations, limited liability companies, associations, groups, or organizations in whose interest the registrant appears or works, the duration of such employment or appearances, and by whom the registrant is paid or is to be paid. The registration period commences on July first and expires on June thirtieth of the following calendar year unless an earlier expiration date is requested by the registrant. Lobbyist required to be registered shall file with the secretary of state, prior to the issuance of a certificate of registration, a written authorization to act as lobbyist. Such authorization must be signed by the person or official of the corporation, limited liability company, association, group, or organization employing such lobbyist and may be filed by facsimile transmission. The secretary of state shall charge a fee of twenty dollars for registering each lobbyist and the first person or entity represented by the lobbyist and an additional fee of five dollars for each subsequent person or entity represented by the lobbyist.
2. Each person registering to act as a lobbyist shall file, on or before August first following the expiration of the registration period, with the secretary of state a detailed report. The report must include a statement as to each expenditure, if any, of fifty dollars or more expended on any single occasion during the legislative session or the interim, as the case may be, on any individual in carrying out the lobbyist's work or include a statement that no reportable expenditures were made during the reporting period. A state official or agency may not require reporting of lobbyist expenditures other than is required under this subsection. The secretary of state shall provide a prescribed form for reporting pursuant to this chapter. The secretary of state shall charge and collect fees for late filing of the detailed expenditure report as follows:
 - a. Within sixty days after the date provided in this subsection for filing the detailed expenditure report, twenty-five dollars;
 - b. Thereafter, fifty dollars; and
 - c. If any currently registered lobbyist fails to file a detailed expenditure report and pay any late fee by October first, the lobbyist's registration is automatically revoked. The lobbyist's registration may be reinstated if the lobbyist thereafter files the detailed expenditure report and pays any outstanding late fee.
3. All information required to be filed under the provisions of this section with the secretary of state and that previously filed, must be compiled by the secretary of state within forty five days after the close of the period for which such information is filed, and such files must be open and accessible for public inspection during the normal working hours.

54-05.1-04. GRANTING AND REVOKING OR CERTIFICATES - REFERRALS AND REPORTS TO THE ATTORNEY GENERAL.

1. It is the duty and responsibility of the secretary of state:
 - a. To grant a certificate of registration and to design and furnish a distinctive lobbyist identification badge to any person registering under section 54-05.1-03 who supplies the information therein required.
 - b. To revoke the certificate of registration of any person who has been convicted of violating any of the provisions of this chapter.
 - c. To refer on the secretary of state's own motion or on the verified complaint of any member of the legislative assembly or on the verified complaint of any state official, board, commission, department, or agency, or on the verified complaint of any other person, to the attorney general for investigation, the activities of any person who the secretary of state has reason to believe has been acting as a lobbyist and who may be in violation of the requirements of this chapter.
 - d. To make available upon request of any citizen expenditures by categories reported by registered lobbyists to have been expended on each individual in carrying out that person's work.
 - e. To supply a current list of registered lobbyists for each legislator upon request.
2. In addition, the secretary of state may revoke the certificate of registration issued pursuant to this chapter for failure to file the reports required by this chapter when due, but no certificate may be revoked if, prior to the last day for filing such reports, the secretary of state has been informed in writing of extenuating circumstances justifying such failure.

54-05.1-05. INVITATIONS AND GIFTS TO LEGISLATORS.

1. When any lobbyist invites a legislator to attend a function sponsored in whole or in part by the lobbyist or the principal, the lobbyist shall, upon the request of the legislator, supply the legislator with the true or estimated cost of the gratuity and allow the legislator to attend the function and pay his own share of the expenses.
2. When any lobbyist offers a gift of a non-information bearing nature to a legislator, the lobbyist shall, upon the request of the legislator, supply the legislator with the true or estimated cost of the gratuity and allow the legislator to pay the cost of and receive the gift.

54-05.1-06. UNLAWFUL MEANS TO INFLUENCE LEGISLATIVE ASSEMBLY. In addition to the violation of any other provision of this chapter, it is unlawful for any lobbyist or for any other person:

1. To directly or indirectly give or agree to give any money, property, or valuable thing, or any security therefore, to any person for his service or the service of any other person in procuring the passage or defeat of any measure before the legislative assembly or either

house thereof, or before any committee thereof, upon the contingency or condition that any measure will be passed or defeated.

2. To directly or indirectly receive or agree to receive any such money, property, thing of value, or security for such service, upon any such contingency or condition, as set forth in the preceding subsection.
3. To attempt to influence any member of the legislative assembly without first making know to such member the real and true interest he has in such measure, either personally or as agent or attorney.

54-05.1-07. PENALTY. Any person who violates any provisions of this chapter is guilty of a class B misdemeanor except that a violation of section 54-05.1-02 or 54-05.1-03 is an infraction.

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