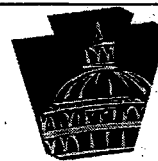


# Regulatory Analysis Form

(Completed by Promulgating Agency)



# IRRC

Independent Regulatory Review Commission

## SECTION I: PROFILE

(1) Agency:

**Department of State, Bureau of Commissions, Elections and Legislation**

(2) Agency Number: 16-50

Identification Number:

IRRC Number: 2799

(3) Short Title:

Biennial Filing Fee Regulation

(4) PA Code Cite:

51 Pa. Code § 53.1

(5) Agency Contacts (List Telephone Number, Address, Fax Number and Email Address):

Primary Contact: Shauna Graves

(717) 265-7632

210 North Office Building

Harrisburg, PA 17120

Fax: (717) 214-9899

shgraves@state.pa.us

Secondary Contact: Larry Boyle

(717) 783-1657

210 North Office Building

Harrisburg, PA 17120

Fax: (717) 214-9899

llboyle@state.pa.us

(6) Primary Contact for Public Comments (List Telephone Number, Address, Fax Number and Email Address) – Complete if different from #5:

## Regulatory Analysis Form

(All Comments will appear on IRRC'S website)

(7) Type of Rulemaking (check applicable box):

- ☒ Proposed Regulation
- ☐ Final Regulation
- ☐ Final Omitted Regulation
- ☐ Emergency Certification Regulation;
- ☐ Certification by the Governor
- ☐ Certification by the Attorney General

(8) Briefly explain the regulation in clear and nontechnical language. (100 words or less)

The proposed rulemaking increases the biennial registration fee for individuals and entities required to be registered under the act from \$100 to \$200

(9) Include a schedule for review of the regulation including:

- A. The date by which the agency must receive public comments: 30 days
- B. The date or dates on which public meetings or hearings will be held: N/A
- C. The expected date of promulgation of the proposed regulation as a final-form regulation: February 2010
- D. The expected effective date of the final-form regulation: January 1, 2011
- E. The date by which compliance with the final-form regulation will be required: January 1, 2011
- F. The date by which required permits, licenses or other approvals must be obtained: N/A

(10) Provide the schedule for continual review of the regulation.

- Annually, the Department analyses revenues and expenditures of its programs as part of the preparation of its proposed budget and will propose amendments to its regulation as the need arises.

## Regulatory Analysis Form

### SECTION II: STATEMENT OF NEED

(11) State the statutory authority for the regulation. Include specific statutory citation.

- Section 13A08(j) of the Act of November 1, 2006, P.L. 1213, No. 134 ("act"), 65 Pa.C.S. § 1301-A, et seq. (relating to lobbying disclosure), provides that the Department of State (Department) may by regulation adjust the filing fee established under section 13A10 of the act (relating to registration fees; fund established; system; regulations) if the Department determines that a higher fee is needed to cover the costs of carrying out the provisions of the act.

(12) Is the regulation mandated by any federal or state law or court order, or federal regulation? Are there any relevant state or federal court decisions? If yes, cite the specific law, case or regulation, as well as any deadlines for action.

- Section 13A08(j) of the Act of November 1, 2006, P.L. 1213, No. 134 ("act"), 65 Pa.C.S. § 1301-A, et seq. (relating to lobbying disclosure), provides that the Department of State (Department) may by regulation adjust the filing fee established under section 13A10 of the act (relating to registration fees; fund established; system; regulations) if the Department determines that a higher fee is needed to cover the costs of carrying out the provisions of the act. There are no deadlines for these regulations.

(13) State why the regulation is needed. Explain the compelling public interest that justifies the regulation. Describe who will benefit from the regulation. Quantify the benefits as completely as possible and approximate the number of people who will benefit.

- The regulation is needed to increase the registration fee to help defray some of the Department's costs of administering the act. The public and the 1,120 principals, 84 lobbying firms and 948 lobbyists will benefit from the Department having adequate funding to administer the act.

## Regulatory Analysis Form

(14) If scientific data, studies, references are used to justify this regulation, please submit material with the regulatory package. Please provide full citation and/or links to internet source.

- None.

(15) Describe who and how many will be adversely affected by the regulation. How are they affected?

- The 1,120 principals, 84 lobbying firms and 948 lobbyists will bear the cost of the increased fee.

(16) List the persons, groups or entities that will be required to comply with the regulation. Approximate the number of people who will be required to comply.

- Approximately 1,120 principals, 84 lobbying firms and 948 lobbyists will be required to comply.

### **SECTION III: COST AND IMPACT ANALYSIS**

(17) Provide a specific estimate of the costs and/or savings to the **regulated community** associated with compliance, including any legal, accounting or consulting procedures which may be required. Explain how the dollar estimates were derived.

- The Department estimates that 2,152 individuals and entities will register in 2011. Total additional cost for the regulated community for a biennial period is \$215,200. No legal, accounting or consulting procedures will be implicated in complying with the regulatory amendments.
- The dollar estimates were derived by multiplying the number of estimated registrations (2,152) times the increase in registration fees (\$100) = \$215,200 for a biennial period.

(18) Provide a specific estimate of the costs and/or savings to **local governments** associated with compliance, including any legal, accounting or consulting procedures which may be required. Explain how the dollar estimates were derived.

- There will be no costs and/or savings to local governments associated with these regulations. However, if a local government is required to register as a principal, the local government would have the cost of the increased registration fee of \$200, and would then be considered to be part of the regulated community.

(19) Provide a specific estimate of the costs and/or savings to **state government** associated with the implementation of the regulation, including any legal, accounting, or consulting procedures which may be required. Explain how the dollar estimates were derived.

- The Department will not incur an increase in administrative costs by implementing the proposed regulation. The regulatory amendment will permit the Department to recoup some of the costs of its operations.

## Regulatory Analysis Form

(20) In the table below, provide an estimate of the fiscal savings and costs associated with implementation and compliance for the regulated community, local government, and state government for the current year and five subsequent years.

	Current FY Year	FY +1 Year	FY +2 Year	FY +3 Year	FY +4 Year	FY +5 Year
<b>SAVINGS:</b>	\$	\$	\$	\$	\$	\$
<b>Regulated Community</b>	N/A	N/A	N/A	N/A	N/A	N/A
<b>Local Government</b>	0	0	0	0	0	0
<b>State Government</b>	0	0	0	0	0	0
<b>Total Savings</b>	0	0	0	0	0	0
<b>COSTS:</b>						
<b>Regulated Community</b>	215,200	0 <sup>1</sup>	430,400	0	430,400	0
<b>Local Government</b>	0	0	0	0	0	0
<b>State Government</b>	0	0	0	0	0	0
<b>Total Costs</b>	0	0	0	0	0	0
<b>REVENUE LOSSES:</b>						
<b>Regulated Community</b>	N/A	N/A	N/A	N/A	N/A	N/A
<b>Local Government</b>	0	0	0	0	0	0
<b>State Government</b>	0	0	0	0	0	0
<b>Total Revenue Losses</b>	0	0	0	0	0	0

(20a) Provide the past three year expenditure history for programs affected by the regulation.

Program	FY -3	FY -2	FY -1	Current FY
Lobbying Disclosure Appropriation SAP fund 10903 (DOS)	N/A	N/A	1,350,000	837,000
Lobbying Disclosure Appropriation SAP fund 60226 from a Restricted Account (DOS)	N/A	231,063	60,000	3,032

(21) Explain how the benefits of the regulation outweigh any cost and adverse effects.

<sup>1</sup> The costs are zero because registrants only pay the registration fee once every two years.

## Regulatory Analysis Form

- The regulation increases the registration fee so that the Department can defray some of the costs of administering the act. While the regulated community bears the burden of an increased fee, it is of utmost importance that the Department is able to continue administering the act.

(22) Describe the communications with and input from the public and any advisory council/group in the development and drafting of the regulation. List the specific persons and/or groups who were involved.

- The Department did not seek input from the public because the Department's lobbying disclosure budget is an administrative function. Additionally, it is necessary for the Department to raise the registration fee so that it may defray some of its costs of administering the act.

(23) Include a description of any alternative regulatory provisions which have been considered and rejected and a statement that the least burdensome acceptable alternative has been selected.

- No other regulatory provisions were considered.

(24) Are there any provisions that are more stringent than federal standards? If yes, identify the specific provisions and the compelling Pennsylvania interest that demands stronger regulations.

- Yes. Principals, lobbying firms and lobbyists do not have to pay a fee to register federally. However, there is a \$100 registration fee in the act, and the act states that the fee may be raised to help cover the costs of carrying out the act (65 Pa.C.S. § 13A08(j)). Therefore, it is necessary in Pennsylvania to have a registration fee to help cover the costs of administering the act, which may not be necessary federally.

(25) How does this regulation compare with those of other states? How will this affect Pennsylvania's ability to compete with other states?

39 states have a registration fee. However, the fees vary greatly amongst the states. Below is a breakdown of the range of registration fees in other states.

- \$10 one time charge: Missouri

## Regulatory Analysis Form

- \$10 per employer annually: Idaho
- \$25 biennially: Arizona, California, Connecticut, Ohio, Utah
- \$25 per year: Mississippi, New Mexico, Wyoming
- \$25 plus \$5 per principal annually: North Dakota
- \$25 plus \$5 for each employer represented or lobbyist employed biennially: Vermont
- \$35 per year for each employee: South Dakota
- \$50 per year: Colorado, New Hampshire, Virginia
- \$50 per each house for a lobbyist to represent 1 principal and \$10 per house for each additional principal represented: Florida
- \$60 biennially: West Virginia
- \$95 plus \$1 for each entity they represent for paid lobbyists/\$15 for unpaid lobbyists: Nevada
- \$100 per year/\$50 for non-profits: Indiana
- \$100 per year: Alabama, Alaska, Maryland, North Carolina, Oklahoma, South Carolina, Tennessee
- \$100 per principal for compensated lobbyists; \$15 per principal for non-compensated lobbyists: Nebraska
- \$110 per year: Louisiana
- \$150 biennially: Montana
- \$200 per year for lobbyists: New York
- \$200 per year, \$5 for ID card, \$10 for supplemental registration/ \$25 for tax-exempt organizations and public agencies: Georgia
- \$200 per year for joint registration of lobbyist and employer/\$100 for each lobbyist associate: Maine
- \$250 biennially: Kentucky
- \$35/\$220/\$300 per year depending on amount spent lobbying: Kansas
- \$250 for lobbyist with one principal; \$400 for two principals or more; \$125 for authorization from lobbyist's principal; \$375 for principal biennially: Wisconsin.
- \$350 per year/\$150 for non-profits: Illinois
- \$500 per year/\$100 per year for lobbyists representing non-profits: Texas
- \$1,000 per year for executive and legislative agents/\$100 per year for employers: Massachusetts
  
- Nothing in these regulations will put Pennsylvania at a competitive disadvantage with other states.

(26) Will the regulation affect any other regulations of the promulgating agency or other state agencies? If yes, explain and provide specific citations.

- Yes. The regulations will amend the lobbying disclosure regulations at 51 Pa. Code §51.1 *et seq* by increasing the registration fee from \$100 biennially to \$200 biennially.



## Regulatory Analysis Form

(27) Submit a statement of legal, accounting or consulting procedures and additional reporting, recordkeeping or other paperwork, including copies of forms or reports, which will be required for implementation of the regulation and an explanation of measures which have been taken to minimize these requirements.

- No legal, accounting or consulting procedures nor any additional reporting, recordkeeping or other paperwork will be required for the implementation of the rulemaking.

(28) Please list any special provisions which have been developed to meet the particular needs of affected groups or persons including, but not limited to, minorities, elderly, small businesses, and farmers.

- None

FACE SHEET  
FOR FILING DOCUMENTS  
WITH THE LEGISLATIVE REFERENCE BUREAU

(Pursuant to Commonwealth Documents Law)

DO NOT WRITE IN THIS SPACE

Copy below is hereby approved as to  
form and legality. Attorney General

Copy below is hereby certified to be a true and correct  
copy of a document issued, prescribed or promulgated by:

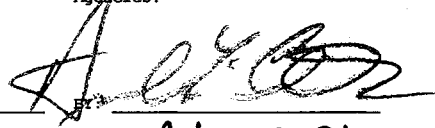
Copy below is approved as  
to form and legality.  
Executive or Independent  
Agencies.

BY

  
(DEPUTY ATTORNEY GENERAL)

Department of State, Bureau of  
Commissions, Elections  
& Legislation

(AGENCY)



Andrew C. Clark

DOCUMENT/FISCAL NOTE NO. 16-50

OCT 01 2009

DATE OF APPROVAL

DATE OF ADOPTION:

AUG 31 2009

DATE OF APPROVAL

BY:

  
Pedro A. Cortés

~~Executive Deputy General Counsel~~  
~~(Chief Counsel,~~  
~~Independent Agency)~~

(Strike inapplicable title)

Secretary

TITLE:

(EXECUTIVE OFFICER, CHAIRMAN OR SECRETARY)

[ ] Check if applicable  
Copy not approved.  
Objections attached.

[ ] Check if applicable.  
No Attorney General approval  
or objection within 30 days  
after submission.

PROPOSED RULEMAKING  
COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF STATE  
BUREAU OF COMMISSIONS, ELECTIONS & LEGISLATION  
51 PA. CODE § 53.1  
LOBBYING DISCLOSURE REGISTRATION FEE REGULATIONS

PREAMBLE

NOTICE OF PROPOSED RULEMAKING  
TITLE 51- PUBLIC OFFICERS  
DEPARTMENT OF STATE

(51 Pa. Code Ch. 53)

Biennial Filing Fee

The Department of State (Department) amends Title 51, Chapter 53 by amending section 53.1 (relating to biennial filing fee) to read as set forth in Annex A. The proposed rulemaking increases the biennial registration fee for individuals and entities required to be registered under the act from \$100 to \$200.

*Statutory Authority:* Section 13A08(j) of the Act of November 1, 2006, P.L. 1213, No. 134 ("act"), 65 Pa.C.S. § 1301-A, *et seq.* (relating to lobbying disclosure), provides that the Department of State (Department) may by regulation adjust the filing fee established under section 13A10 of the act (relating to registration fees; fund established; system; regulations) if the Department determines that a higher fee is needed to cover the costs of carrying out the provisions of the act.

*Purpose:* The current registration fee of \$100 for individuals and entities required to be registered under the act was established by the act at section 13A10(a). Section 13A08(j) of the act states that the fees may be raised if the Department determines that a higher fee is needed to cover the costs of carrying out the provisions of the act. For the fiscal years 2007-2008, the Department's costs for administering the act totaled \$1,054,165.07. For the biennial registration period 2007-2008, the registration fees paid to the Department totaled \$234,200. For the fiscal year 2008-2009, the Department's costs are projected to be \$1,711,318. While the increase in the registration fee will not come close to covering the total costs of administering the act to the Department, it will help to defray some of the costs.

*Description of Proposed Rulemaking:*

*Section 53.1. Biennial Filing Fee.*

Based upon the expense and revenue estimates provided to the Department, the Department proposes to amend § 53.1(a)(1) to increase the biennial registration fee for individuals and entities required to be registered under the act from \$100 to \$200. The increased registration fee will go into effect on January 1, 2011. The increase in the registration fee will help defray some of the costs of administering the act.

**Fiscal Impact**

**Commonwealth:**

By raising the registration fee to \$200, the proposed regulations will help the Department defray some of the costs of administering the act.

**Local Government:**

Local government will not have any expenses associated with these regulations. However, if a local government is required to register as a principal, the local government would have the cost of the increased registration fee of \$200, and would then be considered to be part of the regulated community.

**Private Sector:**

The proposed rulemaking will increase the biennial registration fee for principals, lobbying firms and lobbyists to \$200.

***Regulatory Review:***

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on October 6, 2009, the Department of State (Department) submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the Senate State Government Committee and the House State Government Committee. A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, IRRC may convey any comments, recommendations or objections to the proposed rulemaking within 30 days of the close of the public comment period. The comments, recommendations or objections must specify the regulatory review criteria which have not been met. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the rulemaking, by the Department of State.

***Responses to Comments:***

**Contact Persons:** Interested persons may contact Shauna C. Graves, Assistant Counsel, Department of State, 210 North Office Building, Harrisburg, PA 17120-0039, [shgraves@state.pa.us](mailto:shgraves@state.pa.us). Comments must be received by November 16, 2009 (within 30 days of publication in the *Pennsylvania Bulletin*).

## TITLE 51. PUBLIC OFFICERS

### PART III. LOBBYING DISCLOSURE

#### CHAPTER 53. REGISTRATION AND TERMINATION

**Statutory requirements:** Section 13A08(j) of the Act of November 1, 2006, P.L. 1213, No. 134 ("act"), 65 Pa.C.S. § 1301-A, et seq. (relating to lobbying disclosure), provides that the Department of State (Department) may by regulation adjust the filing fee established under section 13A10 of the act (relating to registration fees; fund established; system; regulations) if the Department determines that a higher fee is needed to cover the costs of carrying out the provisions of the act.

##### **§ 53.1. Biennial filing fee.**

(a) Under section 13A10(a) of the act (relating to registration fees; fund established; system; regulations), a principal, lobbying firm or lobbyist required to be registered under the act shall pay a biennial filing fee of [\$100] \$200 to the Department, made payable to the "Commonwealth of Pennsylvania."

(1) The biennial filing fee shall be tendered to the Department with the filing of the principal's, lobbying firm's or lobbyist's first registration statement in each registration period. However, if the Department receives the filing fee within 5 calendar days of the filing of a registration statement, the registration will not be considered delinquent, in compliance with § 51.4 (relating to delinquency).

(2) The biennial filing fee will be a flat fee for the registration period in which paid. A registrant will not be required to pay more than one biennial filing fee in any given biennial registration period, unless a registrant terminates and attempts to reregister during the same biennial registration period.

(3) A separate biennial filing fee shall be paid for each principal, lobbying firm or lobbyist required to be registered, even if employed by a firm, association, corporation, partnership, business trust or business entity that is also required to register and that has paid or will pay the fee.

(4) The biennial filing fee is nonrefundable and nontransferable.

(5) Filing fees expire at the end of each registration period, regardless of when paid.

(b) The failure to pay a biennial filing fee as required by the act and this section will constitute a failure to register as required by the act.

(c) Money received from biennial filing fees will be deposited in the Fund.



**COMMONWEALTH OF PENNSYLVANIA  
GOVERNOR'S OFFICE OF GENERAL COUNSEL**

October 6, 2009

The Honorable Arthur Coccodrilli  
Chairman  
Independent Regulatory Review Commission  
14<sup>th</sup> Floor, Harrisstown 2  
333 Market Street  
Harrisburg, PA 17101

Re: Proposed Rulemaking of the Department of State  
Lobbying Disclosure Registration Fee Regulations (16-50)

Dear Chairman Coccodrilli:

Enclosed is a copy of the proposed regulation of the Department of State, Bureau of Commissions, Elections and Legislation pertaining to the lobbying disclosure registration fee.

The Department of State, as always, will be pleased to provide your committee with any assistance it may require during the course of its review of this regulation.

Sincerely,

Shauna C. Graves, Counsel  
Bureau of Commissions,  
Elections & Legislation

SCG/kmh  
Enclosures

cc: Gregory E. Dunlap, Acting Chief Counsel  
Department of State  
Joyce McKeever, Deputy Chief Counsel  
Department of State  
Cynthia Montgomery, Regulatory Counsel  
Department of State  
Chet Harhut, Commissioner, Bureau of Commissions, Elections & Legislation

**TRANSMITTAL SHEET FOR REGULATIONS SUBJECT TO THE  
REGULATORY REVIEW ACT**

I.D. NUMBER: 16-50

SUBJECT: LOBBYING DISCLOSURE REGISTRATION FEE REGULATIONS

AGENCY: DEPARTMENT OF STATE  
BUREAU OF COMMISSIONS, ELECTIONS & LEGISLATION

**TYPE OF REGULATION**

- X Proposed Regulation
- Final Regulation
- Final Regulation with Notice of Proposed Rulemaking Omitted
- 120-day Emergency Certification of the Attorney General
- 120-day Emergency Certification of the Governor
- Delivery of Tolled Regulation
- a. With Revisions                      b. Without Revisions

**FILING OF REGULATION**

DATE	SIGNATURE	DESIGNATION
10/6/09	<u>Amy J. Noel</u>	HOUSE COMMITTEE ON STATE GOVERNMENT
10/6/09	<u>J. B. Joseph</u>	MAJORITY CHAIRMAN <u>Josephs</u>
10/6/09	<u>McIlhinney</u>	SENATE COMMITTEE ON STATE GOVERNMENT
10/6/09	<u>P. Scott</u>	MAJORITY CHAIRMAN <u>McIlhinney</u>
10/6/09	<u>Dr. Delaney</u>	INDEPENDENT REGULATORY REVIEW COMMISSION
		ATTORNEY GENERAL (for Final Omitted only)
10/6/09	<u>n. Kelly</u>	LEGISLATIVE REFERENCE BUREAU (for Proposed only)

October 2, 2009