



COMMON  
CAUSE

Pennsylvania

Holding Power Accountable

John F. Mizner  
Chairman  
PA Independent Regulatory Review Commission  
14<sup>th</sup> Floor, Harrisstown 2  
333 Market St.  
Harrisburg, PA 17101

3012

August 21, 2014

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Dear Chairman Mizner:

On June 19, 2013, Common Cause/PA (CC/PA) submitted comments to the PA Independent Regulatory Review Commission (IRRC) regarding Department of State regulation #16-56 (IRRC #3012) which proposed to increase lobbyists' and principles' lobbying registration fees to 700% of the amount established in the 2006 law. In our 2013 comments, CC/PA opposed this increase due to the highly probable negative impact it would have on small organizations and small lobbying firms. This new increase follows right on the heels of the 100% percent increase applied in the last legislative session (2011-12).

In its most recent proposal, the Department of State has reduced the proposed new fee from \$700 to \$400 per principal and lobbyist for each legislative session. In reality that means a small organization still must raise at least \$800 just to cover its lobbying registration fees (\$400 to register the organization, and \$400 to register each lobbyist). For organizations with total annual budgets in the range of \$100,000 per year, or less, \$800 remains an extreme price for registering to lobby.

Therefore, Common Cause/PA must continue to oppose this proposed revised regulation as it establishes excessive costs (especially for small organizations), is damaging to the public interest in its impact, and is not justifiable based on general inflationary adjustments.

In our prior comments, Common Cause/PA recommended several alternatives to the excessive proposed increases (see attached 6/19/13 correspondence):

- Restrain increases to a level that would not exceed the actual increase in inflation for the state of Pennsylvania during the period since the prior increase.
- Alternatively, establish a graduated system of fee increases based on organization's budgets; or stipulate that any increase in the registration fee that elevates the new fee above the original \$100 provided for by law may not raise the total registration fees to exceed one-half of one percent of the organization's total annual budget.
- Or, establish a set of criteria that differentiates between large lobbying entities and small ones. Fee increases (above the \$100 minimum for all) could then reasonably be stratified based on classes of organizations.

If the \$800 per organization minimum registration fee (\$400 for the organization and \$400 for each lobbyist) is permitted to go into effect, it will substantially reduce the number of voices that can be heard in the legislative and regulatory processes. It may even cause some small organizations to flout the registration and reporting standards because the registration fees are so excessive while they still need to have their voices heard in the governing process.

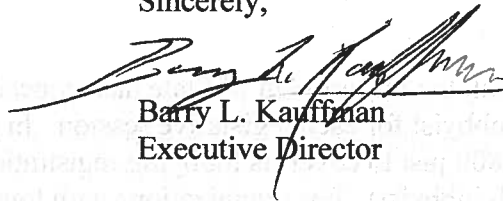
Make no mistake, a fee increase of the size proposed will cause actual harm to the scope and flow of information available to public officials responsible for making informed decisions about public policy. This is clearly contrary to the public interest.

The IRRC must ensure that access to the govern process and public officials remains broad and viable, while oversight functions to protect the integrity of government remain intact and effective. This always will be a balancing act. However, the current DOS proposal, by diminishing the ability of all voices to be effectively heard, will cause actual harm to the public weal.

Common Cause/PA urges the Independent Regulatory Review Commission to reject DOS's proposed regulation #16-56 (IRRC #30120) unless one of the above proposed remedies is adopted.

Thank you for your attention to this commentary.

Sincerely,



Barry L. Kauffman  
Executive Director

cc: Caroline Bailey, Asst. Counsel, DOS  
Fiona Wilmarth, Director of Regulatory Review, IRRC  
James Smith, Regulatory Analyst, IRRC  
Sen. Lloyd Smucker, Chairman, Senate State Government Committee  
Sen. Matt Smith, Minority Chairman, Senate State Government Committee  
Rep. Daryl Metcalfe, Chairman, House State Government Committee  
Rep. Mark Cohen, Minority Chairman, House State Government Committee



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June 19, 2013

Mr. Silvan B. Lutkewitte, III  
Chairman  
PA Independent Regulatory Review Commission  
14<sup>th</sup> Floor, Harrisstown 2  
333 Market St.  
Harrisburg, PA 17101

Dear Mr. Lutkewitte:

Common Cause/PA was the vanguard organization in the effort that led to the passage of Act 134 of 2006. The lobbyist disclosure act is intended to provide useful information to our citizens about who is attempting to influence the creation and administration of public policies that affect nearly every aspect of every Pennsylvanian's life – including the issues that are being lobbied and the amount of money spent on activities related to lobbying efforts.

Nevertheless, there also is a necessity to ensure that the law does not diminish the number and scope of voices presenting views to public officials. It is important that the voices of all Pennsylvanians interested in the development and implementation of the Commonwealth's public policies have the ability to be heard. While improvements could be made to the law with regard to disclosure of gifts and hospitality, issues being lobbied, and the segmentation of expense categories, the act does provide essential information to the public without requiring unreasonable fees or administrative work.

However, the Department of State's proposal (IRRC #: 3012) to implement a lobbying registration fee that is 350% of the current fee cannot be justified in the context of the public interest. This proposed increase follows a 100% increase in registration fees just 2-1/2 years ago—all within a little over 3 legislative sessions after act became operational. Setting the registration fee at a level that is 350% of the current fee would diminish the voices of small organizations who want to present their views and concerns to our state officials. In light of the fact that inflation (nationally) has been averaging 2.18% annually since the enactment of Act 134 in 2007 (2.65% nationally since the last increase was implemented) the proposed fee increase is irrefutably excessive. In our view, a more reasonable response by the IRRC would be to recommend a reduction in the current biennial registration fees. Based on inflation, a reasonable biennial fee would be around \$120 per biennium.

According to the filing by DOS, 27 of the 40 states that charge registration fees have fees that are equal to or lower than Pennsylvania's current fees. Only 3 (MA, TX, NJ) have rates that would exceed those in the proposed increase, and one of those has a significantly lower rate for non-profits (TX) according to DOS's filing.

Even the DOS recognizes that the ability of small organizations and small businesses to engage in lobbying is likely to be severely diminished by this huge fee increase. The Department's revenue projections indicate they believe as many as 1/3 of the currently registered organizations will not continue to register and report their lobbying functions. This may be caused by organizations restricting their lobbying activities to stay under the reporting thresholds. By setting the registration fee at a rate that is 700% of the original fee implemented just a little over 6 years ago, it is probable that some organizations will discontinue this important function – which in many ways would diminish the public's input into the development of important public policies. Because many of the affected entities are small businesses, or small associations, this proposed massive fee increase has a high probability of inflicting severe adverse impacts on their ability to effectively bring their concerns to government officials. The harm caused by this proposed massive increase far outweighs any potential benefit to the Commonwealth or its citizens.

The registration fees never were intended to offset *all* of the costs of administering the law. Rather, they are intended to help reduce the amount of required general appropriations funding. Because Act 134 is intended to provide a tool to expose the impacts of lobbying, protect the public from undue influence of lobbyists, and ferret out activities that could corrupt government functions, it deserves substantial general fund support.

We have reviewed the proposal of the Department of State, and the comments of the three organizations that have raised concerns about the proposal, to date. Common Cause/PA largely concurs with the concerns raised by the commenting organizations with regard to the impact a fee set at 350% of the current fee could have on small organizations.

Therefore, Common Cause/PA recommends the IRRC respond as follows:

- Either reduce the registration fees to keep them in line with the actual rate of inflation since the law was enacted, or limit the amount of the currently proposed increase to a percentage that reflects the actual inflation rate experienced in the Commonwealth between January 1, 2011 and June 1, 2013.

We also suggest that the Department and the IRRC consider alternative options for implementing fee increases, such as:

- Create a graduated system of increases. While the act requires a \$100 base registration fee, it does not prescribe a method for designing future increases. For registration fee increases above the \$100 statutory base fee, the Department could implement stratified increases based on the size of organizational budgets – a system similar to that used by the Bureau of Charitable Organizations for its organizational registration fees. Another alternative (to protect small organizations) would be to insert a caveat in the increase indicating that while every organization would be required to pay a registration fee of at least \$100, the *increase* could not elevate the total registration fee beyond one-half of one percent of the organization's total annual budget. For example, an organization with a \$100,000 annual budget would pay at least

the \$100 minimum fee (not just the \$50 suggested by the formula). However, an organization with a \$1 million budget also would have to pay at least the \$100 registration fee, but if it had a large stable of lobbyists it could be charged up to \$5,000 depending on what the increased fee would be. Or;

- Establish a set of criteria that differentiates between large lobbying entities and small ones. Fee increases (above the \$100 minimum for all) could then be stratified based on classes of organizations.

While the statute does not specifically establish such structures for fee increases, neither does it prohibit such structures. It merely calls on the Department to review and “adjust” the fee, and leaves it up to the Department to determine how and what is reasonable.

Make no mistake, a fee increase of the size proposed will cause actual harm to the scope and flow of information available to public officials responsible for making informed decisions about public policy. This is clearly contrary to the public interest.

Common Cause/PA appreciates your consideration of our concerns and suggestions. Please feel free to contact us if you have any questions.

Sincerely,

Barry L. Kauffman  
Executive Director

cc: Caroline Bailey, Asst. Counsel, DOS  
Fiona Wilmarth, Director of Regulatory Review, IRRC  
James Smith, Regulatory Analyst, IRRC

