



COMMON
CAUSE

Pennsylvania

Holding Power Accountable

3012

June 19, 2013

Mr. Silvan B. Lutkewitte, III
Chairman
PA Independent Regulatory Review Commission
14th Floor, Harristown 2
333 Market St.
Harrisburg, PA 17101

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IRRC

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;

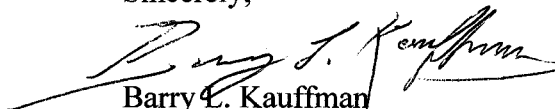
- Establish a set of criteria that differentiates between large lobbying entities and small ones. Fee increases (above the \$100 minimum for all) could then be stratified based on classes of organizations.

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, IRRRC
James Smith, Regulatory Analyst, IRRRC