

# Regulatory Analysis Form

(Completed by Promulgating Agency)

INDEPENDENT REGULATORY  
REVIEW COMMISSION

(All Comments submitted on this regulation will appear on IRRC's website)

(1) Agency  
**Department of State, Bureau of Commissions, Elections and  
Legislation**

(2) Agency Number: 16  
Identification Number: 56

IRRC Number: 3012

(3) PA Code Cite: **51 Pa. Code § 53.1**

(4) Short Title: **Lobbying Disclosure Registration Fee**

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

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(6) 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

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

**The final-form rulemaking provides for an increase to the biennial registration fee for individuals and entities required to be registered under 65 Pa.C.S. Chapter 13A (relating to lobbying disclosure) (act) from \$200 to \$400.**

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

**Section 13A08(j) of the act (65 Pa.C.S. section 13A08(j)) (relating to administration) 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 and regulations) if the Department determines that a higher fee is needed to cover the costs of carrying out the provisions of the act.**

(9) 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.

**Except as set forth in paragraph (8), the regulation is not mandated by any federal or state law or court order or federal regulation.**

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(10) 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 defray some of the Department's costs of administering the act. This increase will allow the Department to continue to provide information to the public and maintain the same level of transparency and customer service that is currently available. The public and the estimated 1,796 principals, 143 lobbying firms and 1,483 lobbyists will benefit from the Department having adequate funding to administer the act.

Under section 13A08(j) of the act, the Department may by regulation adjust the filing fee established under section 13A10 of the act if the Department determines that a higher fee is needed to cover the costs of carrying out the provisions of the act.

The act originally provided for a \$100 biennial registration fee. During the 2007-2008 registration period, the Department expended approximately \$1,052,105 to administer the lobbying disclosure act, of which 28% was funded by the registration fees, and the remaining 72% was paid from the General Fund. During the 2009-2010 registration period, the Department expended approximately \$1,423,106.05 to administer the act, 59% of which was paid from the General Fund. The Department increased the registration fee for the 2011-2012 registration period from \$100 to \$200 by regulation published at 40 Pa.B. 3825 (July 10, 2010). For the 2011-2012 registration period, the Department expended approximately \$1,800,028.43 to administer the act, 63% of which was paid from the General Fund, and the remaining 37% was funded by the registration fees. While the increased fee helped to defray some of the costs, the revenue generated from fees is inadequate to meet the continually rising cost of administering the act. The Department's Bureau of Finance and Operations provided information on the Department's projected expenses and revenue for the 2013-2014 registration period. For the 2013-2014 biennial registration period, it is projected that the Department will spend approximately \$1,661,000 to administer the act, while generating approximately \$684,400 in revenue from the registration fees. The Department is authorized to spend \$800,000 from the Restricted Lobbying Disclosure Account, which will cover approximately 49% of the total costs of administration. The remaining balance, or 51% of the Department's lobbying disclosure expenses, will be funded by the General Fund.

While the costs of administering the act continue to increase, General Fund support remains flat, therefore, it is necessary to increase the registration fee. The increased biennial registration fee will allow the Department's Lobbying Disclosure Division to maintain the same level of customer service and transparency currently offered by the Department.

Department employees assigned to the Lobbying Disclosure Division handle a variety of lobbying disclosure-related tasks. Customer service is one of the main responsibilities of a Lobbying Disclosure Division employee. While it is difficult to quantify customer service, the following is a summary. From December 1, 2013, through May 8, 2014, the Lobbying Disclosure Division fielded 1,048 telephone calls, and on average respond to more than 200 emails a month. In addition to providing assistance via email and telephone, Lobbying Disclosure Division employees handle walk-in customers and other in-person questions. Lobbying Disclosure Division employees are also responsible for the data entry of new and amended expense reports, registration statements, and termination reports that are filed by paper, which accounts for approximately 20% of filings. Lobbying disclosure staff also prepare reports for the State Ethics Commission's

quarterly "failed to file report," which includes contacting registrants to attempt to rectify any issues under the Department's purview. In addition to the many daily responsibilities, Lobbying Disclosure Division staff have duties related to the audit, including preparing a list of qualified registrants, conducting the audit lottery, preparing and mailing notification letters to registrants and auditors, and preparing and providing all the materials required for the audit to the auditor. The employees of the Department's Lobbying Disclosure Division are also involved with the Lobbying Disclosure Online Registration System, including gathering requirements to enhance the system, testing the new enhancements and verifying the current system, serving as a liaison between the registrant and the system vendor while working to resolve any issues the registrant encounters, and creating attributes for system enhancements to address areas of concern.

As provided in section 13A02, the intent of the act is to instill public confidence in the integrity of the process by which laws are made and enforced in the Commonwealth, which is accomplished by regular public disclosure of the identity and scope of activity of those who are paid to influence actions of the General Assembly and the Executive Department. In other words, the act is intended to provide transparency in the legislative process through regular public disclosure of lobbyists and lobbying activities. This important public objective is achieved through a two-part process: (1) registration and reporting by lobbyists, lobbying firms and principals, and (2) disclosure of the information to the public through the Department of State. The lobbying disclosure section of the Department's website is the main vehicle through which the Department provides transparency in lobbying activities in the Commonwealth to the public. The website provides the public with information on the laws and regulations governing lobbying activity in the Commonwealth and links users to the Lobbying Disclosure Online Registration System, which makes public all registrations, reports and statements filed by lobbyists, lobbying firms and principals. The Lobbying Disclosure Online Registration System allows public users to search and view registration statements, quarterly expense reports, and affirmations of registrants. Searches can be conducted in a variety of ways, for example, by registrant type or by type of information (*i.e.* registration statement, expense report or affirmation). Users may also search and view lobbying costs by subject, gift expenses by registrant, or payment expenses by registrant. The Online Registration System provides the public access to information on who is lobbying whom, what they are lobbying for, how much is being spent and much more. The Online Registration System allows the public to see who is influencing whom, providing for transparency in the legislative process.

(11) 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, the lobbying disclosure act in the Commonwealth sets a \$100 registration fee, and states that the fee may be raised to cover the cost of carrying out the act (65 Pa.C.S. section 13A08(j)). The Department, by regulation, raised the fee for the 2011-2012 registration period from \$100 to \$200. It is necessary in this Commonwealth to have revenue from registration fees to supplement the General Fund monies to cover the costs of administering the act, so that the registrants continue to receive a high level of customer service, and the Department is able to maintain transparency available to the public.

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

Forty states have a registration fee. However, the fees vary greatly among the states, not only in amount, but also in fee structure and frequency. Some states, such as Illinois and Colorado, charge a single fee for all registration types, while other states, such as Kansas, charge a different fee for different types of registrants. Additional fee structures across the country include fees based on the number of principals a lobbyist represents, like Tennessee, as well as states that charge a registration fee plus an additional fee for each affiliation, like West Virginia. Due to the many variations in fee structures, it is difficult to conduct a meaningful comparison of the various fees. For example, Virginia's fee appears to be low at \$50 annually, however, it is \$50 per principal a lobbyist represents per year so a lobbyist that represents five principals would pay \$250 per year. The table below is a breakdown of the range of registration fees in other states, arranged by fee structure and frequency.<sup>1</sup>

### Single Fee

#### *Annual:*

- \$10 – Missouri (lobbyists)
- \$25 – Mississippi (lobbyists and lobbyist clients), Wyoming (lobbyists that earn more than \$500/period for lobbying, \$5 for lobbyists that earn less than \$500/period for lobbying)
- \$40 – Colorado (lobbyists, state officials and state employee lobbyists)
- \$50 – New Hampshire (lobbyists)
- \$100 – Alabama (lobbyists), Maryland (lobbyists), Oklahoma (lobbyists), South Carolina (lobbyists and principals)
- \$110 – Louisiana (lobbyists, principals, and employees that make direct lobbying expenditures)
- \$200 – New York (lobbyists that earn more than \$5,000/year lobbying)
- \$250 – Alaska (lobbyists)
- \$300 – Illinois (lobbying entities including individuals, organizations, associations, and executive lobbyists)
- \$425 – New Jersey (lobbyists)

#### *Biennial:*

- \$25 – Arizona (principals)
- \$100 – Utah (lobbyists and principals)
- \$150 – Montana (lobbyists and principals)
- \$250 – Connecticut (lobbyists), Kentucky (legislative agents and employers of legislative agents)

### Different Fee for Non-Profits

#### *Annual:*

- \$200 (lobbyists and lobbyist employers), \$100 (non-profit lobbyists and lobbyist employers) – Indiana
- \$750 (lobbyists), \$150 (lobbyists, if all clients are exempt from Federal tax under sections 501(c)(3), (c)(4) or (c)(6) of the Internal Revenue Code), \$75 (any person required to register solely under requirements relating to independent contractors) – Texas

#### *Biennial:*

- \$300 (paid lobbyists), \$100 (paid lobbyists representing only non-profit 501(c)(3) organizations), \$20 (uncompensated lobbyists) – Nevada

<sup>1</sup> This information was compiled from a National Conference of State Legislatures chart listing the registration requirements for lobbyists in the 50 states, which can be found at: <http://www.ncsl.org/legislatures-elections/ethicshome/50-state-chart-lobbyist-registration-requirements.aspx>. The list was further updated in 2014 based on information available on each state's Website.

### Fee per Affiliation

#### *Annual:*

- \$10 per employer** or interest represented – **Idaho** (lobbyists)
- \$25 per client** – **New Mexico** (compensated lobbyists, no fee for individuals receiving only personal expense reimbursement and no other compensation for lobbying)
- \$40 per employer** – **South Dakota** (lobbyists)
- \$50 per principal** – **Virginia** (lobbyists)
- \$150 per registration** plus **\$40** for lobbyist training – **Tennessee** (lobbyists and lobbyist employers) (separate registration for each relationship with lobbyist/lobbyist employer)
- \$200 per principal** – **Nebraska** (compensated lobbyists, \$15 for lobbyists that are not compensated)

#### *Biennial:*

- \$25 per employer** – **Ohio** (legislative agents)
- \$100 per lobbyist** – **California** (lobbying firms and lobbyist employers)

### Base Registration Fee Plus Fee per Affiliation

#### *Annual:*

- \$0** (no annual registration fee) + **\$10 per employer** + **\$20 ID Badge** – **Georgia** (lobbyists)
- \$25** initial registration fee + **\$15 each subsequent client** – **North Dakota** (lobbyists)
- \$50** first registration + **\$20 each additional principal** – **Florida** (lobbyists)
- \$100** base fee + **\$100 each employer** represented – **West Virginia** (lobbyists)
- \$200** joint lobbyist-employer registration + **\$100 each lobbyist** associate – **Maine** (lobbyists and principals)

#### *Biennial:*

- \$25** base fee + **\$5 each employer** represented (lobbyist)/lobbyist employed (employers) - **Vermont**

### Fee by Registration Type

#### *Annual:*

##### **Kansas:**

- Amount spent lobbying is less than \$1,000 per year - **\$35** (lobbyists)
- Amount spent lobbying is more than \$1,000 per year - **\$300** (lobbyists)
- Employed by a lobbying group or firm - **\$360** (lobbyists)

##### **North Carolina:**

- **\$250** – registration and authorization fee for principals
- **\$250 per registration** (lobbyists, a separate registration statement is required for each principal represented)

##### **Massachusetts:**

- Individual lobbyist - **\$100**
- Lobbying Entities - **\$1,000** registration fee + **\$100 per subagent** (lobbyist) employed
- Lobbying Clients - **\$100 per relationship** with individual lobbyist

#### *Biennial:*

##### **Wisconsin:**

- Lobbying Organization - \$375 registration fee + \$125 for each individual employed as a lobbyist
- Individual lobbyist with one principal - \$350
- Individual lobbyist with more than one principal - \$650

Additionally, some cities have their own lobbying disclosure laws that include a registration fee. Some examples of those fees are as follows:

- New York City - \$150 annually for the first principal represented and \$50 for each additional client registered (lobbyists)
- Los Angeles - \$450 annually plus \$75 for each principal represented from which the lobbyist is compensated \$250 or more in a calendar year
- Philadelphia - \$500 annually for principals, lobbying firms and lobbyists

Nothing in these regulations will put Pennsylvania at a competitive disadvantage with other states.

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

The final regulation should have no effect on other regulations of the Department or other state agencies.

(14) Describe the communications with and solicitation of input from the public, any advisory council/group, small businesses and groups representing small businesses in the development and drafting of the regulation. List the specific persons and/or groups who were involved. ("Small business" is defined in Section 3 of the Regulatory Review Act, Act 76 of 2012.)

In drafting the final rulemaking, the Department undertook communications with and solicitation of input from a number of stakeholders, specifically a number of those who had taken the time to provide comments during the public comment period on the proposed regulation. The Department's outreach included communications with Pennsylvania Association of Government Relations (PAGR), Wanner Associates, Winter Group, Pennsylvania Advocacy and Resources for Autism and Intellectual Disabilities (PAR), ARIPPA, Pennsylvania Farm Bureau, National Association of Social Workers Pennsylvania Chapter (NASW), Stephen MacNett of Conrad O'Brien PC, Phillips Associates, and F. C. Brown and Associates. Additionally, the Department reached out to Representative Daryl D. Metcalfe, State Government Chair, Representative Frank Dermody, Democratic Leader, and Drew Crompton, General Counsel to Senator Joseph B. Scarnati III, President Pro Tempore.

(15) Identify the types and number of persons, businesses, small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012) and organizations which will be affected by the regulation. How are they affected?

The Department estimates that there will be approximately 3,422 individuals and entities that will register in the 2013-2014 registration period, broken down as follows: 1,796 principals, 143 lobbying firms and 1,483 lobbyists. These 3,422 individuals and entities will bear the cost of the increased fee.

Small businesses are defined in Section 3 of the Regulatory Review Act, Act 76 of 2012, which provides that a small business is defined by the U.S. Small Business Administration's (SBA) Small Business Size Regulations under 13 CFR Ch. 1 Part 121. Specifically, size standards are provided at 13 CFR section 121.201. These size standards have been established for types of business under the North American Industry Classification System (NAICS).<sup>2</sup> In applying the NAICS standards to similar types of businesses as those in the regulated community at issue, a small business in Subsector 541 (Professional, Scientific and Technical Services) related to various types of consulting services (541611-541614, 541618, 541620, 541690), public relations (541820), media agencies (541830, 541840, 541890, 541910) or general professional services (541990) is one that has \$14.0 million or less in average annual receipts. Additionally, a small business in Subsector 813 (Religious, Grantmaking, Civic, Professional and Similar Organizations), which includes religious organizations (813110), grant making and giving services (813211, 813219), voluntary health organizations (813212), human rights organizations (813311), environment, conservation and wildlife organizations (813312), other social advocacy organizations (813319), civic and social organizations (813410), business associations (813910), professional organizations (813920), labor unions and similar labor organizations (813930), political organizations (813940), and other similar organizations (813990), is one that has anywhere from \$35.5 million to \$7.0 million or less in average annual receipts. The Department believes that most individuals and business entities in the regulated community are considered small businesses because they would fall under these threshold amounts. However, it is important to note that, while many of the individual lobbyists and lobbying firms would be considered small businesses, there are a number of large "Fortune 500" companies that are registered principals in the Commonwealth. For example, 29 of the top 50 Fortune 500 companies, including Wal-Mart Stores, Exxon Mobil, Apple and General Electric, and 13 of the 20 Commonwealth based companies on the Fortune 500 list, including Comcast, Rite Aid and PPG Industries, are currently registered principals in the Commonwealth.<sup>3</sup> The proposed fee increase is unlikely to adversely impact the many large corporate principals or the lobbyists and/or lobbying firms whom they employ to the extent that the company pays the individual's registration fee.

According to the SBA, there were approximately 989,659 small businesses in the Commonwealth in 2010. Small businesses represented 98.3 % of all employers and employed 48.6 % of the private-sector labor force. As such, the vast majority of businesses in the Commonwealth are considered small businesses. Therefore, for the purposes of determining the economic impact on small businesses, the Department must assume that a large number of the regulated community are small businesses or work for small businesses as that term is defined by the SBA and the Regulatory Review Act.

Small businesses would be affected by the increase in the biennial registration fee for the business itself (principals and lobbying firms). Small businesses would also be affected by the increase in the biennial registration fee for lobbyists, to the extent that the small business pays the fee for the individual.

<sup>2</sup> NAICS standards do not specifically identify lobbyist, lobbying firms or principals as a type of business or industry. However, similar business types were identified and utilized for the purpose of analysis.

<sup>3</sup> Information collected from the 2014 "Fortune 500" list found at <http://fortune.com/fortune500/>

(16) List the persons, groups or entities, including small businesses, that will be required to comply with the regulation. Approximate the number that will be required to comply.

**The Department estimates that there will be approximately 1,796 principals, 143 lobbying firms and 1,483 lobbyists that will be required to comply with the regulation.**

(17) Identify the financial, economic and social impact of the regulation on individuals, small businesses, businesses and labor communities and other public and private organizations. Evaluate the benefits expected as a result of the regulation.

**The original fee set by the act was \$100 biennially. During the 2007-2008 registration period, the revenue generated from the registration fee covered 28% of the expenses incurred by the Department to administer the lobbying disclosure act, with the remaining 72% paid from the General Fund. In the 2009-2010 registration period, the revenue generated from the registration fee covered 41% of the Department's administrative expenses, with the remaining 59% paid from the General Fund. In 2010, the Department, by regulation, raised the biennial registration fee from \$100 to \$200, effective January 1, 2011. The revenue generated from the registration fees covered 37% of the Department's administrative expenses, while the remaining 63% was paid from the General Fund. While the increased fee for the 2011-2012 registration period helped to defray some of the costs, the revenue generated from the fees is insufficient to meet the continually rising costs of administering the act. The Department's Bureau of Finance and Operations provided information on the Department's projected expenses and revenue for the 2013-2014 registration period. For the 2013-2014 biennial registration period, it is projected that the Department will spend approximately \$1,661,000 to administer the act, while generating approximately \$684,000 in revenue from the registration fees. The Department is authorized to spend \$800,000 from the Restricted Lobbying Disclosure Account, which will cover approximately 49% of the total costs of administration. The remaining balance, or 51% of the Department's lobbying disclosure expenses, will be paid from the General Fund. From 2007 to 2014, the Department will have used \$3,597,400.53 from the General Fund to defray the costs of administering the act. Or, stated differently, 61% of the lobbying disclosure costs from 2007-2014 have been paid from the General Fund.**

**The Department believes that a majority of the individuals and entities in the regulated community at issue qualify as "small business" pursuant to the federal SBA standards. Therefore, small businesses will be impacted by the increase in the biennial registration fee and will also be impacted to the degree that the individual or entity pays the registration fee for its lobbyist employees. Comments on the proposed rulemaking received by the Department indicated that a fee increase to \$700 would place a financial hardship upon many of the non-profit registrants, advocacy groups and small businesses that undertake in lobbying efforts. The end result anticipated by some of the commentators would be less transparency and the exclusion of these small lobbying efforts from participating in the legislative process. Obviously, such a result would be unacceptable and was never intended. After reviewing the comments and considering the possibility of these unintended consequences, the Department reevaluated the fee and determined that a \$400 fee or 100% increase would be more manageable for small businesses. Further, an increase to \$400 accomplishes the Department's goal of the regulated community contributing more equally towards the costs associated with their regulation.**

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

The regulation increases the registration fee so that the Department can continue administering the act with the same level of customer service, public access, and transparency that is currently available. While the regulated community bears the burden of an increased fee, it is of utmost importance that the Department is able to continue to fulfill its statutorily prescribed duties. Additionally, the regulated community should contribute towards the costs associated with their regulation. If the fee were raised to \$400 for the 2015-2016 registration period, the fee would cover 72% of the Department's administrative expenses, with the remaining 28% supplemented by General Fund resources. The regulation benefits the entire Commonwealth in that it will ensure the fiscal integrity of the Lobbying Disclosure Division and allow the Department to carry out its statutory duties, while also providing assistance to registrants and maintaining transparency in the legislative process. Please refer to the table below.

Biennial Registration Period				
	2007-2008	2009-2010	2011-2012	2013-2014 (projected)
Department Spending	\$1,052,105.62	\$1,423,106.05	\$1,800,028.43	\$1,661,000.00
Authorized Funds From Restricted Account	\$294,749.08	\$579,090.49	\$665,000.00	\$800,000.00
General Funds Used	\$757,356.54	\$844,015.56	\$1,135,028.43	\$861,000.00

Total General Funds Used (2007-2014) = \$3,591,400.53

(19) 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 3,422 individuals and entities will register in the current (2013-2014) biennial registration period. If all of these individuals and entities register in the 2015-2016 biennial registration period, the total additional cost to the regulated community for a biennial period would be \$684,400 (3,422 registrants x additional \$200 increase).

When the Department increased the fee for the 2011-2012 biennial registration period, the number of total registrations increased. Specifically, lobbying firm registrations increased by 17, lobbyist registrations increased by 114, and principal registrations increased by 78, for a total increase of 209 registrations from the 2009-2010 biennial period. While the previous fee increase saw an increase in the number of registrations, the Department is mindful of the fact that a slight decrease in the registration of lobbyists may occur when this fee increase becomes effective. However, based on prior experience, any decrease in lobbyists' registration is anticipated to be negligible.

The dollar estimates were derived by multiplying the number of estimated registrations by the increase in registration fees (\$200) for a biennial period. No legal, accounting or consulting procedures will be implicated in complying with the regulatory amendments.

(20) Provide a specific estimate of the costs and/or savings to the **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 engages in lobbying activity for which they are required to register, the local government would bear the cost of the increased registration fee of \$400, and would then be considered to be part of the regulated community.**

(21) Provide a specific estimate of the costs and/or savings to the **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, in conjunction with General Fund monies, continue to administer the act. There are no other costs or savings to state government associated with compliance with the final rulemaking.**

(22) For each of the groups and entities identified in items (19)-(21) above, 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 or any additional reporting, recordkeeping or other paperwork will be required for the implementation of the rulemaking.**

(23) 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 13- 14	FY +1 Year 14 - 15	FY +2 Year 15- 16	FY +3 Year 16- 17	FY +4 Year 17- 18	FY +5 Year 18- 19
<b>SAVINGS:</b>						
Regulated Community	N/A	N/A	N/A	N/A	N/A	N/A
Local Government	0	0	0	0	0	0
State Government	0	\$200,000	\$300,000	\$300,000	\$300,000	\$300,000
<b>Total Savings</b>	0	\$200,000	\$300,000	\$300,000	\$300,000	\$300,000
<b>COSTS:</b>						
Regulated Community	0 <sup>4</sup>	\$1,368,800	0	\$1,368,800	0	\$1,368,800
Local Government	0	0	0	0	0	0

<sup>4</sup> The costs are zero because registrants only pay the registration fee once every two years.

State Government	0	0	0	0	0	0
<b>Total Costs</b>	<b>0</b>	<b>\$1,368,800</b>	<b>0</b>	<b>\$1,368,800</b>	<b>0</b>	<b>\$1,368,800</b>
<b>REVENUE LOSSES:</b>						
Regulated Community	N/A	N/A	N/A	N/A	N/A	N/A
Local Government	0	0	0	0	0	0
State Government	0	0	0	0	0	0
<b>Total Revenue Losses</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

(23a) Provide the past three year expenditure history for programs affected by the regulation.

Program	FY -3 (FY10)	FY -2 (FY11)	FY -1 (FY12)	Current FY (FY13)
STATE FUNDS (Lobbying Disclosure Appropriation SAP fund 10903)	\$363,621.64	\$657,833.79	\$507,506.31	\$475,000.00
AUGMENTATIONS (Lobbying Disclosure Appropriation SAP fund 60226 from Restricted Account)	\$490,000.00	\$175,000.00	\$300,000.00	\$300,000.00
<b>TOTAL</b>	<b>\$853,621.64</b>	<b>\$832,833.79</b>	<b>\$807,506.31</b>	<b>\$775,000.00</b>

(24) For any regulation that may have an adverse impact on small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012), provide an economic impact statement that includes the following:

- (a) An identification and estimate of the number of small businesses subject to the regulation.
- (b) The projected reporting, recordkeeping and other administrative costs required for compliance with the proposed regulation, including the type of professional skills necessary for preparation of the report or record.
- (c) A statement of probable effect on impacted small businesses.
- (d) A description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed regulation.

(a) Assuming that the majority of individuals and entities qualify as "small business" as that term is defined by the Regulatory Review Act and the SBA, there could be as many as 3,422 small businesses subject to regulation. While the majority of members in the regulated community would qualify as small businesses, the regulated community (3,422) does include large multi-million dollar corporations/entities such as Wal-Mart Stores, Exxon Mobil, Apple, the Hershey Company and Comcast.

(b) There is no projected reporting or record keeping costs required for compliance. There are no additional administrative costs required for compliance. (The administrative costs would be those associated with completing the biennial registration form and submitting

payment to the Department. These costs would be the same regardless of the fee increase).

(c) The probable effect on impacted small businesses would be a 100% increase in the biennial registration fee for lobbyists, lobbying firms and principals that are required to register with the Department.

(d) The Department considered the following less costly alternatives:

1. Fee increase to \$250, \$300 and \$350
2. Fee increase and threshold increase
3. Tier fee systems including fee based on:
  - a. Filer type
  - b. Expense report amount
  - c. Total number of affiliations
  - d. Profit and non-profit status
4. Automatic fee adjustment

The Department's Bureau of Finance and Operations determined that a fee increase to \$400 was necessary for the Department to continue to carry out its duties under the act; therefore, the minimal increases considered (\$250, \$300 and \$350) were rejected.

After careful consideration and research, the Department determined that the Secretary is without the authority to change the fee structure, and therefore, the tiered fee structure options are not viable.

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

The Department considered several different types of fee structures to reduce the impact on small businesses, including a fee based on expense report amount and a separate fee for non-profit registrants. However, under the current statutory provisions, the Secretary of the Commonwealth is not authorized to implement such fee structures. Additionally, a separate fee for non-profit entities did not necessarily correlate to helping small businesses, as not all small businesses are non-profit nor are all non-profits small businesses.

The Department, as required by section 13A08(j), did review the threshold amount to determine whether an adjustment in the amount was necessary. The act authorizes the Department to revise the threshold by publication in the *Pennsylvania Bulletin* every two years beginning in 2009. Raising the threshold may benefit smaller lobbying businesses as they would no longer have to register and pay the biennial fee if their lobbying activities fell beneath the threshold amount. Accounting for inflation, the reporting threshold could be set at \$2,849.07.<sup>5</sup> However, the Department would have had to increase the threshold in June 2013 to be effective the 2015-2016 registration period.

(26) 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.

<sup>5</sup> Inflation amount calculated on using the Federal Bureau of Labor Statistics Inflation Calculator available at [http://www.bls.gov/data/inflation\\_calculator.htm](http://www.bls.gov/data/inflation_calculator.htm). The calculation determined that \$2,500 in 2007, the year the act became effective, has the same buying power as \$2,849.07 in 2014.

The Department carefully considered the alternatives suggested by the commentators, fee structures in other states, and the reports and recommendations of the Department's Bureau of Finance and Operations in developing this final rule making. However, the Department determined that the alternative fee structures were beyond the authority of the Secretary granted by the act.

(27) In conducting a regulatory flexibility analysis, explain whether regulatory methods were considered that will minimize any adverse impact on small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012), including:

- a) The establishment of less stringent compliance or reporting requirements for small businesses;
- b) The establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses;
- c) The consolidation or simplification of compliance or reporting requirements for small businesses;
- d) The establishment of performing standards for small businesses to replace design or operational standards required in the regulation; and
- e) The exemption of small businesses from all or any part of the requirements contained in the regulation.

(a) & (b) All lobbyists, lobbying firms and principals that are not exempt from registering under the act (*see* 65 Pa.C.S. section 13A06) are required to register with the Department within ten days of acting in any capacity as a lobbyist, lobbying firm or principal, and on a biennial basis in odd-numbered years. Reporting requirements are set by statute and apply to all lobbyists, lobbying firms and principals required to register and report under the act. Further, regulatory authority, with the exception of a fee increase, rests with the Lobbying Disclosure Committee. The Committee, established by section 13A10(d) of the act, is comprised of the Chairman of the State Ethics Committee (or his/her designee), the Attorney General (or his/her designee), the Chief Counsel of the Disciplinary Board of the Supreme Court of Pennsylvania (or his/her designee), the Secretary of the Commonwealth (or his/her designee), an individual appointed by the President Pro Tempore of the Senate (or his/her designee), an individual appointed by the Senate Minority leader (or his/her designee), an individual appointed by the Speaker of the House of Representatives (or his/her designee), an individual appointed by the Minority leader of the House of Representatives (or his/her designee) and a lobbyist appointed by the Governor. Following the passage of the act in 2006, the Committee was formed to promulgate regulations and publish a manual for accounting guide. Since accomplishing the tasks assigned, the Committee has not reconvened. As the statute is written, it does not appear that the Committee was intended to recommence following the promulgation of the regulations and publication of the manual for accounting guide. In other words, it appears that the Committee was formed only for the purpose of promulgating the initial regulations, and not intended to exist beyond that purpose. As such, whether the Committee could be reconvened to amend the regulations is unclear, however, it is clear that the Department is without the authority to establish less stringent reporting requirements through the regulatory process.

(c) There are no compliance or reporting requirements that could be consolidated for small businesses. Biennial registration requirements are the same for all lobbyists, lobbying firms and principals that are required to register under the act.

(d) The regulations do not contain design or operational standards.

(e) The lobbying disclosure act already provides for exemptions from the registration and reporting requirements of the act. These exemptions are not, however, based on a small business status, but rather are dependent on the amount of money expended or received. The persons and activities exempt from registration under the act (*see* 65 Pa.C.S. section 13A06) include individuals who do not receive economic consideration for lobbying, individuals whose economic consideration for lobbying, from all principals represented, does not exceed \$2,500 in the aggregate during any reporting period, as well as individuals who engage in lobbying on behalf of the individual's employer if the lobbying represents less than 20 hours during any reporting period. Additionally, principals that expend less than \$2,500 for lobbying purposes, during any reporting period, are not required to register. To exclude a lobbyist, lobbying firm or principal from the requirements of the act based upon size of business would be inconsistent with the public disclosure and transparency the act was enacted to provide. Additionally, such exclusions would prevent the Department from obtaining adequate revenue to meet expected expenditures, which would inhibit the Department's ability to carry out its statutorily mandated duties under the act.

(28) If data is the basis for this regulation, please provide a description of the data; explain in detail how the data was obtained, and how it meets the acceptability standard for empirical, replicable and testable data that is supported by documentation, statistics, reports, studies or research. Please submit data or supporting materials with the regulatory package. If the material exceeds 50 pages, please provide it in a searchable electronic format or provide a list of citations and internet links that, where possible, can be accessed in a searchable format in lieu of the actual material. If other data was considered but not used, please explain why that data was determined not to be acceptable.

**This rulemaking is based upon financial reports prepared by the Department of States's Bureau of Finance and Operations. This rulemaking is not based upon any scientific data, studies, or references.**

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

A. The date by which the agency must receive public comments:

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: **September 2014.**

D. The expected effective date of the final-form regulation: **The increased registration fee will be effective upon publication of the final-form rulemaking in the *Pennsylvania Bulletin*. The increased biennial registration fee will go into effect for the 2015-2016 registration period.**

E. The date by which compliance with the final-form regulation will be required: **The increased registration fees will apply to the 2015-2016 registration period.**

F. The date by which required permits, licenses or other approvals must be obtained: *N/A*.

(30) Describe the plan developed for evaluating the continuing effectiveness of the regulations after its implementation.

**Annually, the Department analyzes revenues and expenditures of its programs as part of the preparation of its proposed budget and will propose amendments to its regulations as the need arises. In addition, the act requires the Department to review the filing fee no less than every two years.**

**LOBBYING DISCLOSURE RESTRICTED ACCO  
PROPOSED BIENNIAL RENEWAL  
EFFECTIVE IN FY14-15 RENE**

**LICENSE CLASSES**

Lobbyist	1,483	\$	200.00	\$	296,600.00
Firm	143	\$	200.00	\$	28,600.00
Principal	1,796	\$	200.00	\$	359,200.00
	3,422				

FY 2012 - 2013 BIENNIAL PERIOD TOTAL			
PROJECTED REGISTRANT COUNT	CURRENT RENEWAL FEE	TOTAL RENEWAL FEES	TOTAL RENEWAL FEES
3,422			

FY 2014 - 2015 BIENNIAL PERIOD TOTAL			
PROJECTED REGISTRANT COUNT	CURRENT RENEWAL FEE	TOTAL RENEWAL FEES	TOTAL RENEWAL FEES
3,422			

TOTAL REVENUE: \$ 684,400.00

\$ 1,368,800.00

FINANCIAL STATUS	\$200 Biennial Renewal Fee									
	Actual FY 06-07	Actual FY 07-08	Actual FY 08-09	Actual FY 09-10	Actual FY 10-11	Actual FY 11-12	Projected FY 12-13	Projected FY 13-14		
Beginning Balance:	0.00	255,708.35	271,457.24	490,787.38	68,341.54	146,248.18	91,652.24	356,652.24		
Revenue:	486,771.49	76,512.30	260,254.80	68,274.50	567,908.21	120,404.06	565,000.00	120,000.00		
Total Revenue:	486,771.49	332,220.65	531,712.04	559,061.88	636,249.75	266,652.24	656,652.24	476,652.24		
Total General Fund Expenses/Budget:	0.00	545,624.06	340,300.48	384,000.00	97,180.01	586,633.16	464,165.17	475,000.00		
Total Restricted Fund Expenses/Budget:	231,063.14	60,763.41	40,924.56	490,720.34	490,001.57	175,000.00	300,000.00	300,000.00		
Total Overall Expenses/Budget:	231,063.14	606,387.47	381,225.04	874,720.34	587,181.58	761,633.16	764,165.17	775,000.00		
Remaining Balance:	255,708.35	271,457.24	490,787.38	68,341.54	146,248.18	91,652.24	356,652.24	176,652.24		

JNT FINANCIAL STATEMENT  
 FEE INCREASE  
 VAL PERIOD

5/12/2014

(effective FY14-15)

		\$400 Biennial Renewal Fee											
Projected FY 14-15	Projected FY 15-16	Projected FY 16-17	Projected FY 17-18	Projected FY 18-19	Projected FY 19-20	Projected FY 20-21	Projected FY 21-22	Projected FY 22-23	Projected FY 23-24				
176,652.24	805,652.24	426,652.24	911,652.24	482,652.24	916,652.24	434,652.24	813,652.24	274,652.24	595,652.24				
1,129,000.00	240,000.00	1,129,000.00	240,000.00	1,129,000.00	240,000.00	1,129,000.00	240,000.00	1,129,000.00	240,000.00				
1,305,652.24	1,045,652.24	1,555,652.24	1,151,652.24	1,611,652.24	1,158,652.24	1,563,652.24	1,053,652.24	1,403,652.24	835,652.24				
295,000.00	200,000.00	200,000.00	200,000.00	200,000.00	200,000.00	200,000.00	200,000.00	200,000.00	200,000.00				
500,000.00	619,000.00	644,000.00	669,000.00	695,000.00	722,000.00	750,000.00	779,000.00	808,000.00	838,000.00				
795,000.00	819,000.00	844,000.00	869,000.00	895,000.00	922,000.00	950,000.00	979,000.00	1,008,000.00	1,038,000.00				
805,652.24	426,652.24	911,652.24	482,652.24	916,652.24	434,652.24	813,652.24	274,652.24	595,652.24	(2,347.76)				

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FACE SHEET  
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<p>Copy below is hereby approved as to form and legality. Attorney General</p> <p>BY: _____ (DEPUTY ATTORNEY GENERAL)</p> <p>_____ DATE OF APPROVAL</p> <p><input type="checkbox"/> Check if applicable Copy not approved. Objections attached.</p>	<p>Copy below is here by certified to be a true and correct copy of a document issued, prescribed or promulgated by:</p> <p>Department of State, Bureau of Commissions, Elections &amp; Legislation</p> <p>_____ (AGENCY)</p> <p>DOCUMENT/FISCAL NOTE NO. <u>16-56</u></p> <p>DATE OF ADOPTION: _____</p> <p>BY: <u>Carol Aichele</u> Carol Aichele TITLE <u>Secretary</u> (EXECUTIVE OFFICER, CHAIRMAN OR SECRETARY)</p>	<p>Copy below is hereby approved as to form and legality. Executive or Independent Agencies.</p> <p>BY: <u>[Signature]</u></p> <p><u>8/13/14</u> DATE OF APPROVAL</p> <p>(Chief Counsel, Independent Agency) (Strike inapplicable title)</p> <p><input type="checkbox"/> Check if applicable. No Attorney General approval or objection within 30 days after submission.</p>
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FINAL RULEMAKING

COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF STATE  
BUREAU OF COMMISSIONS, ELECTIONS & LEGISLATION

TITLE 51. PUBLIC OFFICERS

51 Pa. Code, Part III, Lobbying Disclosure, Chapter 53, § 53.1

BIENNIAL FILING FEE

PREAMBLE

NOTICE OF FINAL RULEMAKING  
TITLE 51 – PUBLIC OFFICERS  
DEPARTMENT OF STATE

(51 Pa. Code Part III, Lobbying Disclosure, Chapter 53, § 53.1)

LOBBYING DISCLOSURE REGISTRATION FEE

The Department of State (Department) hereby amends § 53.1 (relating to biennial filing fee) to read as set forth in Annex A. The rulemaking increases the biennial registration fee for individuals and entities required to be registered under 65 Pa.C.S. Chapter 13A (relating to lobbying disclosure) (act) from \$200 to \$400.

*Effective Date*

The amendment will be effective upon final-form publication in the *Pennsylvania Bulletin*. The increased fees will be implemented for the 2015-2016 biennial registration period.

*Statutory Authority*

The final rulemaking is authorized under section 13A08(j) of the act (relating to administration), which provides that the Department may by regulation adjust the filing fee established under section 13A10 of the act (relating to registration fees, fund established, system and regulations) if the Department determines that a higher fee is needed to cover the costs of carrying out the provisions of the act.

*Background and purpose*

A registration fee of \$100 for individuals and entities required to be registered was the fee originally established under section 13A10 of the act. Section 13A08(j) of the act permits the fee to be raised by regulation if the Department determines that a higher fee is needed to cover the costs of carrying out the provisions of the act. The current registration fee of \$200 was established by regulation published at 40 Pa.B. 3825 (July 10, 2010). At that time, the Department acknowledged that even the \$200 fee covered less than half of the expenses associated with administration of the act.

For the 2007-2008 biennial registration period, the Department's costs for administering the act were approximately \$1,052,105, and the registration fees paid to the Department at that time were approximately \$581,438. For the 2009-2010 biennial registration period, the Department's costs were approximately \$1,423,106, and the registration fees paid to the Department were approximately \$324,509. For the 2011-2012 registration period, the Department's costs were approximately \$1,800,028. The biennial registration fee was raised to

\$200 for the 2011-2012 registration period, and the amount of fees collected was approximately \$733,879. For 2013-2014 biennial registration period, the Department's costs are projected to be approximately \$1,661,000, and the registration fees collected are estimated to be approximately \$684,400. When the \$400 fee is adopted for the 2015-2016 registration period, it is projected that the Department will spend approximately \$1,638,500 to administer the act, while the registration fees collected will be approximately \$1,368,800.

From 2007 to 2014, the Department will have spent approximately \$5,936,240 to administer the act, while collecting only approximately \$2,324,227 in revenue received from registration fees. In that same time period, 2007-2014, the Department will have used approximately \$3,597,400 from the General Fund, which covers 61% of the Department's total cost in administering the act.

The act states that the Department may raise the fee to cover the costs of carrying out the act. By raising the fee to \$400, the Department is able to continue to administer the act, and the regulated community contributes more equally to their regulation.

#### *Summary of Comments and Responses to Proposed Rulemaking*

Upon consideration of the comments received, the Department reevaluated the amount of the proposed fee increase and determined that a reduction of \$300 from the proposed \$700, to a fee of \$400, was appropriate. The \$400 fee is an increase of 100% from the current fee, keeping the increase in line with the previous increase. A \$400 registration fee is both reasonable and mindful of the Department's goal to share the cost of lobbying disclosure regulation more equally between the regulated community and the citizens of the Commonwealth. Additionally, an increased fee of \$400 allows the Department to continue to provide the same level of customer service to the registrants *and* the same level of transparency in the lobbying disclosure process available to the public.

The proposed regulation was published in the *Pennsylvania Bulletin* on June 1, 2013. Publication was followed by a 30-day public comment period. The Department received a total of 21 comments from the public and three legislative comments during the public comment period. The Department received an additional comment from Stephen MacNett of Conrad O'Brien PC on November 12, 2013.

Due to concerns raised by commentators, the Department undertook an in depth review of alternative fee options. Options considered included (1) a tiered fee structure with fees based on filer type; (2) a tiered fee structure where fees would be calculated based on expense report amount; (3) a fee structure based on number of affiliations; and (4) different fees for profit and non-profit registrants. However, each option considered presented both policy and legal concerns. The option of a tiered fee structure by filer type would be the simplest in terms of the Online Registration System and program operation because this structure would utilize the three filer types (lobbyist, lobbying firm and principal) currently available. However, this change would result in increased costs for two of the three filer types. The Department also considered a fee structure where fees would be based on expense report amount. Under this fee structure principals would be the primary filer type, as lobbying firms and lobbyists only

file expense reports if, during the reporting period, the lobbying firms or lobbyist engaged in lobbying that was not contained in any expense report filed by a principal or principals represented. As expenses change from quarter to quarter and year to year, this option would be an unpredictable funding source. The Department also considered a fee structure based on profit and non-profit status; however, this too would be problematic. The Department found that a reduced fee for non-profit entities may not be equitable because not all non-profits are small businesses (some non-profits are large companies) and not all small businesses are non-profits. Additionally, this fee structure would require the Department to research each filer to ensure its non-profit status. The Department concluded that the lobbying disclosure registration fee is a single fee for all registrants as based on its interpretation of 65 Pa.C.S. §§ 13A08(j) and 13A10(a), and 4 Pa. Code §§ 51.6 and 53.1. Therefore, the Department does not believe that it has the authority under the act to implement any of the alternatives reviewed.

One commentator suggested a more limited increase to the fee with an automatic inflator to provide predictability for companies and entities engaged in lobbying. However, the act specifically states that the Department must review the fees every two years. As such, an automatic inflator would be contrary to the statutory mandate, and therefore not a feasible option.

Department staff also looked to other states' lobbying disclosure programs for comparison. Specifically, the Department looked at Indiana and Texas, both which have fee structures based on profit or non-profit status; Massachusetts and Wisconsin, both which have fee structures based on filer type and number of affiliations; and Kansas, which has a fee structure based on amount spent lobbying. Unlike Pennsylvania, however, there is specific authority in each state's statute enabling each fee type.

The Department, as required by section 13A08(j) of the act, did review the \$2,500 threshold amount to determine whether an adjustment in the amount was necessary. Accounting for inflation since the threshold was established, the reporting threshold could be set at approximately \$2,800. The act authorizes the Department to revise the threshold by publication in the *Pennsylvania Bulletin* every two years beginning in 2009. The Department would have had to increase the threshold in June 2013 for the 2015-2016 biennial registration period. The next opportunity to increase the threshold will be for the 2017-2018 registration period.

Beginning in November 2013 through March 2014, the Department contacted various members of the regulated community to explain the research conducted for various fee options and the rationale for the \$400 fee, in an effort to reach a consensus on an appropriate amount of increase in the fee.

#### **The amount of the increase is beyond legislative intent**

The commentators concerns regarding the legislative intent were two-fold. First, that the registration fee was never intended to cover all the costs of administering the lobbying disclosure act. And second, that the intent of the act, to provide transparency in the legislative process, would be frustrated by the proposed fee amount. In considering both prongs of this

concern, the Department lowered the proposed fee to a rate that more equally shares the cost of lobbying disclosure regulation between the regulated community and the taxpayers of the Commonwealth.

The Tive Lobbying Group (Tive Lobbying), The Pennsylvania Library Association (PaLA), Common Cause of Pennsylvania (Common Cause), The House State Government Committee (HSGC), Representative Frank Dermody, Democratic Leader (Representative Dermody), and Drew Crompton, General Counsel to Senator Joseph B. Scarnati III, President Pro Tempore (Drew Crompton), stated that the registration fee was never intended to cover the entire cost of administering the act. The Department has reduced the fee increase from \$700 biennially, which would have fully funded the Department's administrative costs, to \$400 biennially, which will more equally distribute the cost of administering the act between the regulated community and the citizens of the Commonwealth:

The Pennsylvania Association for Government Relations (PAGR), Tive Lobbying, PaLA, Phillips Associates, Common Cause, Stephen MacNett of Conrad O'Brien PC (Stephen MacNett), the HSGC, and Drew Crompton remarked that the amount of the proposed fee increase would erode the transparency intended by the act. The Department took this concern into consideration when preparing the final-form regulation, and believes that the reduction in the amount of increase to a fee of \$400 will allow for continued transparency as envisioned by the act and achieved by lobbying disclosure regulation thus far.

#### **Concerns regarding the anticipated 1/3 decrease in registration**

Commentators PAGR, Tive Lobbying, the Pennsylvania Farm Bureau (Farm Bureau), the Pennsylvania Commercial Action Network (PCAN), Common Cause, Stephen MacNett, and the HSGC expressed concerns regarding the anticipated 1/3 decrease in registration. In the proposed regulation, the Department cautiously projected that as many as 1/3 of currently registered lobbyists may not renew their registration when the fee increase becomes effective. This estimate was based on information received from the program area that many lobbyists who currently register with the Department, although they are not required to under the act, may no longer do so under a \$700 fee. It is difficult to determine how many lobbyists register with the Department although they are not required to do so under the act. This is because lobbyists do not typically file expense reports, and are only required to do so if the principal for whom they are employed does not include an expense on their report. As such, the Department determined that a cautious estimate of 1/3 would be appropriate.

Due to the reduction in the fee increase amount, the Department no longer projects a 1/3 decrease in lobbyists' registration. When the Department increased the fee for the 2011-2012 registration period, registrations actually increased. In keeping with the previous rate of increase (100%), the Department does not believe, based on prior experience, that the fee increase will result in a 1/3 decrease in lobbyist registrations. The Department is mindful that a slight decrease in the registration of lobbyists as individuals may occur, however, any decrease in registration is anticipated to be negligible.

#### **The increased fee would infringe upon Constitutional Rights**

Commentators commented that a fee of this magnitude unconstitutionally infringes on free speech and the right of citizens to petition their government for redress of grievances. The comments stated that the increased fee would restrict and deter freedom of speech and serve as a disincentive for citizens to engage in the democratic process. Balsbaugh Insurance Agency, Inc. (Balsbaugh Insurance), Disability Rights Network of Pennsylvania (DRN), Pennsylvania Advocacy and Resources for Autism and Intellectual Disabilities (PAR), ARIPPA, PCAN, Phillips Associates, and Representative Dermody commented that a fee of such magnitude would have a chilling effect on freedom of speech. Commentators Guardian Storage Solutions (Guardian Storage), Tive Lobbying, F.C. Brown and Associates (F.C. Brown), Common Cause, Stephen MacNett, and Representative Dermody indicated that the fee increase would infringe upon the right of citizens to petition their government for redress of grievances.

The Department lowered the rate of the proposed increase to an increase of 100%, which reflects the same rate of increase as the previous fee increase, effective for the 2011-2012 biennial registration period. The Department believes that this will be a much more manageable registration fee, and will not unconstitutionally burden the free speech rights or the rights to petition government, of the citizens and lobbyists of the Commonwealth.

**Proposed fee places a significant burden on small lobbying efforts and non-profit organizations**

Commentators Guardian Storage, B.J. Alan Company, DRN, Pennsylvania Partnerships for Children (PA Partnerships), National Association of Social Workers Pennsylvania Chapter (NASW), Pennsylvania Pharmacists Association (PA Pharmacists), PAGR, Blue Cross of Northeastern Pennsylvania (BCNEPA), Pennsylvania Society of Association Executives (PSAE), PAR, Tive Lobbying, ARIPPA, PaLA, Wanner Associates, Farm Bureau, Common Cause, Representative Dermody, and Drew Crompton stated that a fee of such magnitude places an undue burden and significant hardship on small businesses and associations, advocacy groups, non-profit organizations, and other small lobbying efforts. The Department recognizes that any increase in costs is not optimal for anyone, including small lobbying efforts and non-profit organizations. The Department responded to the comments by significantly reducing the amount of the proposed fee. The additional fees are necessary so that the Department can defray some of the substantial costs associated with administering the act. Although the regulated community bears the burden of an increased fee, it is of utmost importance that the Department is able to continue to administer the act.

DRN and NASW suggested that the Department charge a different fee for non-profit entities. The Department is not statutorily authorized to charge different fees for different filer types or entities based on non-profit status, public advocacy, etc. The act sets forth a single fee that the regulations define as a flat fee for each registrant.

**The Department needs to minimize their own costs before increasing the fee**

Commentators B.J. Alan Company, PAGR, PSAE, PAR, ARIPPA, Wanner Associates, PCAN, and Drew Crompton suggested that the Department undertake efforts to reduce the costs associated with the administration of the act before passing along the increase in costs to

the regulated community through a fee increase. The Department has evaluated and will continue to evaluate efficiencies. Unfortunately, the most costly aspects of administering the act are statutorily required, for example, the Online Registration System. The Department already significantly cut costs by reducing the Lobbying Disclosure Division staff by 20% in the 2013-2014 fiscal year. Additionally, the Department has improved customer service by, among other things, making access to register and file expense reports faster and simpler, sending email reminders to public users so they know what tasks need to be completed, and developing user dashboards so that registration information is customized to the user. To continue to be responsive to public feedback, more database enhancements are planned in 2014, including improving the search function, simplifying the forms for those that file by paper, and aligning all entries to the most current registration information.

PAGR, PAR and Wanner Associates suggested that one area where the Department could cut costs is by simplifying the audit process. Commentators remarked that the audit process is burdensome and duplicative. The statutorily required audit accounts for a large part of lobbying disclosure expenses. The Department has researched and reviewed the audit process numerous times, however, the requirements set forth by the act and the process prescribed in the regulations severely limit the Department's ability to cut costs in this area. Section 13A08 of the act at subsection (f) sets forth the requirement for and process of lobbying disclosure audits. Specifically, the statute provides that "every two years, the Secretary of the Commonwealth shall contract for the services of one or more **certified public accountants** or **certified public accounting firms**." See 65 Pa.C.S. § 13A08(f)(1) (emphasis added). The requirement that the audit be conducted by certified public accountants is the main reason for the high audit cost.

#### The proposed fee would represent a 700% increase in seven years

Commentators B.J. Alan Company, DRN, Pennsylvania Partnerships for Children, NASW, PAGR, BCNEPA, Dauphin County Office of County Commissioners (Dauphin County Commissioners), PSAE, PAR, Tive Lobbying, ARIPPA, PaLA, Wanner Associates, Farm Bureau, PCAN, Phillips Associates, Common Cause, HSGC, and Representative Dermody commented that the fee increase would represent an increase of 700% from the original registration fee set by the act seven years ago. Commentators also noted that the increase proposed would be a 250% increase to the current fee of \$200, which was implemented for the 2011-2012 registration period following a 100% fee increase.

The fee set by the act was entirely insufficient. As such, the Department bore a majority of the costs, including building the Online Registration System. The Department was underfunded and fronted many of the costs associated with lobbying disclosure regulation. Since the General Fund contribution has remained flat despite the increase in costs (see Chart A), the Department is no longer in the position to bear the majority of the costs. As noted previously, the majority of the Department's expenses are related to the Online Registration System. The Department made a number of enhancements to the system, despite being underfunded. Now, however, the Department requires funds to continue to operate at the same level of customer service, public access, and transparency that has come to be expected. As such, a fee increase is necessary. In addition to allowing the Department to continue to provide

the public with transparency in lobbying activities in the Commonwealth and the regulated community with assistance, the fee will allow for a more equal distribution of lobbying disclosure costs among the regulated community and the taxpayers of the Commonwealth.

Commentators Common Cause and ARIPPA commented that the proposed fee far exceeds the rate of inflation. Unfortunately, the costs associated with lobbying disclosure regulation have far exceeded the rate of inflation and the Department is no longer able to afford to continue to fund the majority of the costs. Despite the Department's efforts to decrease spending, costs have increased dramatically. Such increases are beyond the control of the Department, for example, increases to benefit rates and maintenance costs associated with the Online Registration System, and require the Department to increase the fee so that lobbying disclosure regulation may continue. While the newly proposed fee may exceed the rate of inflation, the Department believes that the regulated community should contribute more equally toward the costs associated with their regulation. As such, the \$400 fee reflects a more equal contribution from the regulated community.

**The proposed fee would be among the highest lobbying disclosure registration fees in the country**

Commentators PA Pharmacists, PAGR, BCNEPA, Wanner Associates, and Common Cause stated that the proposed fee would make the Commonwealth one of the most expensive states to lobby in the country. While the fee may appear to be one of the highest in the country, the numbers are somewhat misleading. Whereas the Commonwealth charges a flat registration fee, many states charge a fee per principal or per lobbyist, which, depending on the number of principals represented or lobbyists employed, can be very costly. The fee in those states appears to be lower, but in reality, the sums are much higher. For example, lobbyists in South Dakota pay a registration fee of \$40 per year for each employer. The number of employers a lobbyist may have could be just one or could be ten or higher, so the registration fee could be anywhere from \$40 per year to \$400 per year or more. The proposed fee of \$400 biennially is comparable to, and even less than, other states with the same fee structure. Therefore, the Commonwealth will not be at a competitive disadvantage as compared to other states.

**Lobbying regulation is a public benefit that should be publically funded**

Commentators Tive Lobbying, PaLA, PCAN, and Drew Crompton commented that lobbying disclosure regulation provides an important public benefit and therefore should be publically funded. Commentators stated that the regulation of lobbying activities serves an important public function, that being transparency in the legislative process, and therefore the regulation of lobbying disclosure activities should be funded by the citizens of the Commonwealth. The \$400 fee will distribute the costs associated with lobbying disclosure regulation more equally between the regulated community and the taxpayers of the Commonwealth. The program will continue to be publically funded.

**Compliance with the act is already expensive**

Commentators B.J. Alan Company, NASW, PA Pharmacists, Dauphin County Commissioners, PAR, Tive Lobbying, and Wanner Associates commented that compliance with the act is expensive and burdensome at the current fee level. While the Department empathizes with the commentators, the Department is charged with administering the statute only. The requirements for compliance are prescribed by the act and regulations, both of which the Department is obliged to administer. The Department has and will continue to make efforts to make compliance less burdensome. The Department will also continue to look for efficiencies.

#### **The proposed fee would create barriers to transparency**

Commentators PAGR, Tive Lobbying, Farm Bureau, Phillips Associates, Common Cause, and Representative Dermody commented that the amount of the proposed fee increase would create barriers to transparency. Commentators remarked that the decrease in number of registrants and the forcing out of small lobbying efforts would result in decreased transparency. Further, commentators averred that such a fee would erode the transparency the act has accomplished to date.

The newly proposed fee of \$400 will allow the Department to continue to provide transparency and public access to the legislative process, without the concerns presented by an increase of 250%. The new increase will be more manageable for all registrants and accomplish the Department's goal of maintaining transparency and customer service at the currently available level.

#### **The proposed fee would force out small lobbying efforts**

Commentators Balsbaugh Insurance, PA Pharmacists, PAGR, BCNEPA, PSAE, Tive Lobbying, ARIPPA, PaLA, Wanner Associates, Farm Bureau, Phillips Associates, Common Cause, and Drew Crompton commented that a fee of such magnitude would force small lobbying efforts to discontinue lobbying activities. Commentators indicated that many small lobbying groups find it difficult to finance lobbying activity under the current fee, and if the fee were to increase to \$700 as proposed, many of those groups would be forced to discontinue their lobbying efforts.

The Department took this concern into consideration when deciding to pursue the new \$400 registration fee, which the Department believes will be more manageable for small lobbying efforts.

#### **The proposed fee would make the vital function of lobbying for heavily regulated industries more expensive**

Commentators B.J. Alan Company and BCNEPA commented that the increase would make lobbying, a vital function for heavily regulated industries, much more expensive.

The Department acknowledges that a fee increase is not ideal for anyone from small lobbying efforts to large scale efforts and understands that lobbying is a vital function of

heavily regulated industries. In recognition of this, the Department reduced the amount of increase from a 250% increase to a 100% increase. The additional fees are necessary to allow the Department to continue to administer the act and provide adequate assistance to the regulated community as well as transparency in the lobbying activities in the Commonwealth to the public. Although the regulated community does bear the burden of the increased cost, the community should contribute to the costs associated with their regulation.

### **IRRC Comment/Response**

#### **Why did the Department see no need for “early and meaningful input from the regulated community,” as directed by Governor’s Executive Order 1996-1?**

The goal and purpose of Governor’s Executive Order 1996-1 is for the regulated community to provide the promulgating agency with meaningful feedback that will assist in the development of a regulation. Unfortunately, with a fee increase regulation, comments and feedback from the regulated community tend to be reactive to the idea of paying more money. For this, as well as other reasons, the Department has historically viewed the setting of fees as an administrative function. The Department has, however, reevaluated that position and realizes that while numbers (*i.e.*, how much) are administrative, the regulated community can provide meaningful comments on how an increase is accomplished. Therefore, the Department has sought, received, and will continue to be receptive to comments from the community on how to achieve the goal of the fee increase and balance of the budget.

#### **Based on the comments, it appears that the fee increase will curtail the disclosure that the Act has accomplished to date. Why is this result in the public interest?**

As this result would not be in the public interest, the Department reevaluated the amount of increase. The Department determined, upon consideration of the comments received from both IRRC and the public, as well as the potential results, that a fee of \$400 would serve all interested parties.

#### **Provide supporting documentation of total dollar amounts it has used for annual and biennial periods.**

Please refer to the attached document entitled “Lobbying Disclosure Spending by Biennial Renewal Period,” (Chart A) provided by the Department’s Bureau of Finance and Operations. Chart A provides an overview of lobbying disclosure spending by biennial renewal period, including Department of State spending, Authorized Funds from the Lobbying Disclosure Restricted Account, General Funds used, and registration fees received.

#### **Provide a breakdown of the dollar amounts by activity to show how the dollars are spent.**

Please refer to the attached document entitled “Lobbying Disclosure FY 2013-2014 Approved Rebudget,” (Chart B) provided by the Department’s Bureau of Finance and Operations. Chart B is the approved lobbying disclosure rebudget for the 2013-2014 fiscal year, which contains an itemized account of lobbying disclosure costs by funding source.

**Provide an explanation demonstrating that the expenses exclusively represent the costs of carrying out the provisions of the Act.**

Lobbying disclosure expenses fall into two main categories: personnel costs and operating costs. Operating costs account for 59% of the total lobbying disclosure budget, while personnel costs account for the remaining 41% of the total lobbying disclosure budget. Personnel costs consist of salaries and benefits of four full-time employees. Operating costs represents all other lobbying disclosure costs, from the Lobbying Disclosure Online Registration System to postage, with allocations ranging from \$50 to \$335,000. While many of the operating costs are minimal, for example a \$500 allocation for postage costs, there are several high-priced items, namely, telecommunications, the contract for auditing services, and costs related to the Online Registration System. These items also represent the most important aspects of lobbying disclosure regulation. Telecommunications provides the means through which the Lobbying Disclosure Division provides assistance to the regulated community, the statutorily mandated audit encourages compliance with the act, and the Online Registration System, also statutorily mandated, provides public disclosure and transparency in the legislative process. The Online Registration System accounts for 73% of the operating costs and 43% of the total lobbying disclosure budget. Please refer to the attached document entitled "Lobbying Disclosure FY 2013-2014 Approved Rebudget," (Chart B) provided by the Department's Bureau of Finance and Operations.

**Provide an explanation of what the Department has done to reduce expenses to the greatest extent possible before imposing a higher fee on the regulated community**

The Department has made several efforts to cut costs, including reducing the Lobbying Disclosure Division staff by 20% for the 2013-2014 fiscal year. Additionally, the Department has improved customer service by, among other things, making access to register and file expense reports faster and simpler, sending email reminders to public users so they know what tasks need to be completed, and developing user dashboards so that registration information is customized to the user. To continue to be responsive to public feedback, more database enhancements are planned in 2014, including improving the search function, simplifying the forms for those that file by paper, and aligning all entries to the most current registration information. Please refer to the attached document entitled "Changes to Lobbying Disclosure Budget," (Chart C) provided by the Department's Bureau of Finance and Operations for further cost reduction information. Chart C provides an account of the changes (decreases and increases) to the lobbying disclosure budget, including personnel changes, salary and benefit increases, and operating changes. As many of the Department's primary costs are mandated by the act, and the Department has already sustained a 20% reduction of lobbying staff, it would be difficult to make additional cuts without significantly reducing the level of customer service provided to registrants and the public.

**How did the Department calculate this 1/3 assumption?**

Based on feedback from the regulated community, the Department estimated that lobbyists, who are exempt from registration pursuant to section 13A06 of the act, but register only to gain access to the Capitol, would no longer do so if the fee were to increase to \$700. It

is important to note, however, that was a very cautious estimate, and while unlikely that as many as 1/3 of the currently registered lobbyists would not register following the fee increase, the Department determined that such a cautious estimate was appropriate for a fee increase at the proposed rate of \$700.

This estimate does not, however, apply to the currently proposed increase of \$400. Based on the previous fee increase of 100% effective for the 2011-2012 biennial registration period, the Department does not anticipate a significant decrease in lobbyists' registration. The Department does recognize that a fee increase may result in a slight decrease in lobbyist registrations; however, the Department saw an increase in registration when the prior increase became effective. As such, any decrease in registration when the fee increase goes into effect for the 2015-2016 biennial registration period is anticipated to be negligible.

**How did the Department incorporate this assumption into the fee increase, revenue and expense dollar estimates shown elsewhere in the RAF and Preamble?**

The Department incorporated this assumption into the fee increase, revenue and expense dollar estimates throughout the Regulatory Analysis Form (RAF) and Preamble by reducing the projected number of lobbyist registrants for the 2013-2014 registration period (1,377) by 1/3. This was calculated by multiplying the number of lobbyists (1,377) by 1/3, the product (459) of which represents the projected number of lobbyists that will not seek renewal. To determine the total number of lobbyists estimated for the 2015-2016 biennial period, the product (459) was subtracted from the number of lobbyists (1,377). This number was used to calculate the revenue anticipated for the registration periods following the proposed increase.

As the rate of increase has been reduced from 250% to an increase of 100%, the Department no longer estimates a 1/3 decrease in lobbyist registrations. Any decrease in registration is anticipated to be minor.

**In RAF 19, the Department estimates regulated entities will incur an additional cost of \$1,349,500 for the 2015-2016 registration period. However, RAF 23 appears to show an increased cost to the regulated community of \$2,210,600.**

The amounts shown in number 19 of the RAF (proposed) represent the additional cost that will be incurred by the regulated community. Simply stated, how much the increase will cost the regulated community. The first number, \$1,579,000, represents the increased amount to the regulated community. This number was calculated as follows:

**Step 1:** multiply the projected number of registrants (3,158) by the current fee (\$200) to determine the current cost of compliance  
 $3,158 \times 200 = 631,600$

**Step 2:** multiply the projected number of registrants (3,158) by the proposed fee (\$700) to determine the cost of compliance under the proposed fee  
 $3,158 \times 700 = 2,210,600$

**Step 3:** subtract the current cost of compliance (\$631,600) from the cost of compliance under the proposed fee (\$2,210,600) to determine the additional cost of compliance (how much more the regulated community will pay) under the proposed fee

$$2,210,600 - 631,600 = 1,579,000$$

The second number, \$1,349,500, represents the increased cost of compliance if, as the Department previously estimated, 1/3 of the currently registered lobbyists do not renew their registration when the proposed fee is implemented. This number differs from the first number because it takes the decreased registration into account. The number was calculated following the same formula as above, using 2,699 for the number of registrants in place of 3,158.

While the numbers shown in question 19 of the RAF represent the increased amount or additional cost to the regulated community, the numbers shown in RAF 23 represent the total cost to the regulated community. This number is the product in step two above.

**In regard to fees, RAF 18 also includes a table that shows a figure of \$665,000 of funds used from the restricted account, not the \$733,879 fee figure in the example. What accounts for the difference between the fees received and the funds withdrawn from the restricted account?**

The lobbying disclosure registration period is a biennial period; therefore, the Department must divide the revenue received in half so that the revenue lasts for the entire two-year period. Lobbyists, lobbying firms and principals must register with the Department of State, unless exempt under section 13A06 of the act, within ten days of acting in any capacity as a lobbyist, lobbying firm or principal. A new registration, that is the registration of a lobbyist, lobbying firm or principal that has not previously registered with the Department or whose registration was terminated or expired, could occur at any time during a biennial period. A lobbyist, lobbying firm or principal that is already registered with the Department, however, must renew their registration at the beginning of each new biennial registration period (unless exempt under the act), as lobbying registrations expire approximately ten business days after the new registration period begins. As such, the majority of the revenue generated from registration fees is received at the beginning of the registration period. Additionally, the amount of funds the Department is authorized to withdraw from the Restricted Account is determined prior to the registration period for which it is authorized. The Department bases the amount of funds to withdraw upon the projected revenue generated from the fees because the total revenue generated is unknown until the biennial registration period is closed. As a result, the total fee revenue is sometimes greater than the amount projected and amount authorized. For example, the revenue in the 2011-2012 biennial period was \$733,879, while the amount authorized for that period was only \$665,000.

**The Department should reconcile the amounts presented in RAF 18 and RAF 23a.**

The amounts shown in RAF number 18 are different from those that appear in number 23a as a result of the different time periods represented by each chart. The chart in question 18 contains numbers that represent biennial registration periods, specifically, the 2007-2008,

2009-2010, 2011-2012, and 2013-2014 biennial registration periods, whereas the chart in question 23a contains numbers that represent fiscal years, specifically FY 2010, FY 2011, FY 2012 and FY 2013. While the biennial registration period begins on January 1 in odd numbered years and ends on December 31 of the following even numbered year, the fiscal year begins on July 1 and ends on June 30 of the following year. Therefore, the biennial registration period crosses three different fiscal years. For example, the current biennial registration period began on January 1, 2013, and ends on December 31, 2014, while the current fiscal year began on July 1, 2013, and ended on June 30, 2014. The current fiscal year is within the current biennial registration period, however, the current biennial registration period also includes the last six months of the previous fiscal year (FY 12-13) and the first six months of the next fiscal year (FY 14-15). As the biennial registration period and the fiscal year represent different segments of time, the numbers contained therein are different.

**The Department should justify why it has not increased the thresholds.**

Section 13A08(j) requires the Secretary of the Commonwealth to review the threshold for registration and reporting on a biennial basis. Section 13A08(j) also provides the Secretary the authority to increase the threshold for reporting and registration administratively. The threshold may be increased biennially, and requires that the Department publish the adjusted amount in the *Pennsylvania Bulletin* by June 1 every two years. The Department reviews the threshold for registration and reporting to determine whether the rates are reasonable for assuring appropriate disclosure, as required by the act. Section 13A06 of the act provides that individuals whose economic consideration for lobbying does not exceed \$2,500 in the aggregate during any reporting period or a principal whose total expenses for lobbying purposes do not exceed \$2,500 during any reporting period, are exempt from registration under section 13A04 and reporting under section 13A05 of the act. This is the threshold amount originally set by the act in 2006. The Department did consider raising this amount to adjust for inflation. Accounting for inflation, the threshold could be adjusted to \$2,849.07 (inflation adjusted fee amount calculated by Federal Bureau of Labor Statistics' CPI Inflation Calculator available at [www.bls.gov/data/inflation\\_calculator.htm](http://www.bls.gov/data/inflation_calculator.htm)). The Department has discussed the possibility of increasing the threshold amount. Raising the threshold may benefit smaller lobbying efforts, which would no longer have to register and pay the registration fee if their lobbying activities fell beneath the threshold amount. The Department continues to evaluate the threshold amount, and has until June 1, 2015, to adjust the amount for the 2017-2018 biennial registration period.

*Description of the Final-Form Rulemaking*

The final-form rulemaking amends § 53.1(a)(1) to increase the biennial registration fee for individuals and entities required to be registered under the act from \$200 to \$400. The increased registration fee will go into effect for the 2015-2016 biennial registration period.

*Fiscal Impact*

The amendment will increase the biennial registration fee for individuals and entities required to be registered under the act. The Department estimates there will be 3,422

registrants that will be required to pay the increased fee in 2015-2016, and thereafter. Small businesses that are members of the regulated community or individuals employed by small businesses will be impacted by the proposed regulation. However, small businesses and individuals whose lobbying activities are exempt under section 13A06 of the act are not required to register, and therefore, will not be impacted by the fee increase. The proposed regulation should have no other adverse fiscal impact on the private sector, the general public, the Commonwealth or its political subdivisions. However, if a local government engages in regulated activity for which registration is required, the local government would bear the cost of the increased registration fee, and would then be considered to be part of the regulated community.

#### *Paperwork Requirement*

The rulemaking will require the Department to update some of its forms to reflect the new fee; however, the amendment will not create additional paperwork for the regulated community or the private sector.

#### *Sunset Date*

The act provides that the Department shall review the filing fee on a biennial basis and may by regulation adjust the filing fee if the Department determines that a higher fee is needed to cover the costs of carrying out the provisions of the act. Therefore, no sunset date has been assigned.

#### *Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on May 20, 2013, the 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 for review and comment. A copy of this material is available to the public upon request.

In compliance with section 5(c) of the Regulatory Review Act (71 P.S. § 745.5(c)), the Department also provided IRRC, the Senate State Government Committee and the House State Government Committee with copies of comments received as well as other documents when requested. In preparing the final-form rulemaking, the Department considered all comments from IRRC, the Senate and House State Government Committees, and the public.

Under section 5.1(j.2) of the Regulatory Review Act (71 P.S. § 745.5a(j.2)), on \_\_\_\_\_, 2014, the final-form rulemaking was (deemed) approved by the Senate State Government Committee. On \_\_\_\_\_, 2014, the final-form rulemaking was (deemed) approved by the House State Government Committee. Under section 5(g) of the Regulatory Review Act (71 P.S. § 745.5(g)), IRRC met on \_\_\_\_\_, 2014; and approved the final-form rulemaking.

*Contact Person*

Interested persons may obtain information regarding the final-form rulemaking by writing to Caroline A. Bailey, Assistant Counsel, Department of State, 301 North Office Building, Harrisburg, PA 17120, or by email at [carbailey@pa.gov](mailto:carbailey@pa.gov).

*Findings*

The Department of State finds that:

- (1) Public notice of the proposed rulemaking was given under sections 201 and 202 of the act of July 31, 1968 (P.L. 769, No. 240) (45 P.S. §§ 1201 and 1202) and the regulations promulgated thereunder, 1 Pa. Code §§ 7.1 and 7.2.
- (2) A public comment period was provided as required by law and all comments were considered in drafting this final-form rulemaking.
- (3) The amendments to the final-form rulemaking do not enlarge the purpose of the proposed rulemaking published at 43 Pa.B. 3009.
- (4) This final-form rulemaking is necessary and appropriate for administering and enforcing the authorizing act identified in this Preamble.

*Order*

The Department of State, acting under its authorizing statutes, orders that:

- (A) The regulations of the Department at 51 Pa. Code Chapter 53, § 53.1, are amended to read as set forth in Annex A.
- (B) The Department shall submit this order and Annex A to the Office of Attorney General for approval as required by law.
- (C) The Department shall certify this order and Annex A and deposit them with the Legislative Reference Bureau as required by law.
- (D) This order shall take effect upon publication in the *Pennsylvania Bulletin*.

Carol Aichele  
Secretary of the Commonwealth

DEPARTMENT OF STATE  
 LOBBYING DISCLOSURE SPENDING BY BIENNIAL RENEWAL PERIOD

	1/2007 - 12/2008	1/2009 - 12/2010	1/2011 - 12/2012	1/2013 - 12/2014	**	TOTAL
Dept. of State Spending:	\$1,052,105.62	\$1,423,106.05	\$1,800,028.43	\$1,661,000.00		\$5,936,240.10
Authorized Funds from Restricted Account:	\$294,749.08	\$579,090.49	\$665,000.00	\$800,000.00		\$2,338,839.57
General Funds Used:	\$757,356.54	\$844,015.56	\$1,135,028.43	\$861,000.00		\$3,597,400.53
Registration Fees Received:	\$581,438.59	\$324,509.50	\$733,879.81	\$684,400.00		\$2,324,227.90

\* Includes one-time deposit of \$266,071.49 from the State Ethics Commission in December 2006. In January 2007, as a result of Act 134 of 2006, the Department of State took over the registration function of lobbying disclosure (from the State Ethics Commission). All registration fees that were in the Ethics Commission restricted revenue account were provided to the Department as a one-time transfer of funds. The State Ethics Commission was unable to keep the registration funds as they had to stay with that function of lobbying disclosure, which now resides with the Department.

\*\* Estimated

LOBBYING DISCLOSURE  
FY 2013-14 APPROVED REBUDGET

PERSONNEL COSTS:	STATE FUNDS	RESTRICTED REVENUE	TOTAL FY 13-14 BUDGET	
Salaries	\$161,000.00	\$30,000.00	\$191,000.00	4 total positions funded
Benefits	\$124,000.00	\$0.00	\$124,000.00	
<b>TOTAL PERSONNEL COSTS:</b>	<b>\$285,000.00</b>	<b>\$30,000.00</b>	<b>\$315,000.00</b>	
<b>OPERATING COSTS:</b>				
Travel	\$50.00	\$0.00	\$50.00	
Training	\$700.00	\$0.00	\$700.00	
Telecommunications-Recurring	\$6,200.00	\$0.00	\$6,200.00	Landline, Voice and Data Connection Services
Legal Services/Fees	\$1,500.00	\$0.00	\$1,500.00	Online legal research
Specialized Services	\$108,700.00	\$0.00	\$108,700.00	Lobbying Disclosure Audit; Office of Administration/Office of the Budget Billings
Advertising	\$0.00	\$0.00	\$0.00	
Contracted Information Technology Services-Vendor Provided	\$65,000.00	\$270,000.00	\$335,000.00	IT System Support (LD Online Registration System), Spanaugle, Augmented Staff for Computer System
Contracted Maintenance Services-Information Technology	\$1,475.00	\$0.00	\$1,475.00	Hardware Network Maint, Hardware Storage Maint
Real Estate	\$3,300.00	\$0.00	\$3,300.00	Parking
Office Equipment	\$0.00	\$0.00	\$0.00	
Office Supplies	\$500.00	\$0.00	\$500.00	
Software	\$1,000.00	\$0.00	\$1,000.00	ASAP (Advanced System Analysis Program) Software - DELL Computers Vendor
Postage	\$500.00	\$0.00	\$500.00	
Freight	\$0.00	\$0.00	\$0.00	
Printing	\$0.00	\$0.00	\$0.00	
Membership Dues	\$0.00	\$0.00	\$0.00	
Insurance/Surety/Fidelity Bonds	\$700.00	\$0.00	\$700.00	Department of General Services Billings
Other Operational Expenses	\$375.00	\$0.00	\$375.00	
<b>TOTAL OPERATING COSTS:</b>	<b>\$190,000.00</b>	<b>\$270,000.00</b>	<b>\$460,000.00</b>	
<b>TOTAL FY 2013-14 BUDGET:</b>	<b>\$475,000.00</b>	<b>\$300,000.00</b>	<b>\$775,000.00</b>	

CHANGES TO LOBBYING DISCLOSURE BUDGET

4/25/2014

Personnel Changes

Loss of Clerk Typist 2 (effective 7/1/2013)	(\$61,906.78)
Reduction of Attorney 1 Salaries and Benefits (Effective 12/14/2012)	(\$7,785.39)
	(\$69,692.17)

FY2013-14 Salary Increases:

July 2013 - 0.5% General Salary Increase
January 2014 - 0.5% General Salary Increase
April 2014 - 2.25% Step Increase

FY2014-15 Salary Increases:

July 2014 - 2.0% General Salary Increase
January 2015 - 2.25% Step Increase

FY13-14 ANNUAL SALARIES for 4 FTE	FY14-15 ANNUAL SALARIES for 4 FTE	CHANGES IN SALARIES
\$191,000.00	\$193,400.00	\$2,400.00

Increase to Benefit Rates - FISCAL YEAR 2013-2014

	FY13-14 ANNUAL SALARIES for 4 FTE	FY14-15 ANNUAL SALARIES for 4 FTE	CHANGES IN SALARIES	ANNUAL RATE for 4 FTE
Active Health Benefits	\$390.00	\$425.00	9.0 % increase	\$31,842.00
Annuitant Health Benefits	\$265.00	\$305.00	15.1% increase	\$44,370.00
SERS Pension Rate	10.51%	15.12%	43.7 % increase	\$24,876.00
Leave Payout Assessment	1.60%	1.70%	6.3% increase	\$2,797.00
Workers Compensation	2.55%	2.22%	14.7% decrease	\$3,657.00
Life Insurance	\$4.50	\$4.51	0.25% increase	\$471.00
				\$108,013.00

Increase to Benefit Rates - FISCAL YEAR 2014-2015

Active Health Benefits	\$425.00	\$455.00	7.0 % increase	\$34,870.00
Annuitant Health Benefits	\$305.00	\$334.00	9.5% increase	\$47,502.00
SERS Pension Rate	15.12%	19.99%	32.2 % increase	\$34,516.00
Leave Payout Assessment	1.70%	1.85%	8.8% increase	\$3,194.00
Workers Compensation	2.22%	0.50%	77.5% decrease	\$863.00
Life Insurance	\$4.51	\$4.58	1.6% increase	\$478.00
				\$121,423.00

FY13-14 ANNUAL BENEFIT RATE for 4 FTE	FY14-15 ANNUAL BENEFIT RATE for 4 FTE	CHANGES IN BENEFIT RATES
\$31,842.00	\$34,870.00	\$3,028.00
\$44,370.00	\$47,502.00	\$3,132.00
\$24,876.00	\$34,516.00	\$9,640.00
\$2,797.00	\$3,194.00	\$397.00
\$3,657.00	\$863.00	(\$2,794.00)
\$471.00	\$478.00	\$7.00
\$108,013.00	\$121,423.00	\$13,410.00

Operating Changes	3/2011 through 2/2013	3/2013 through current date	Changes	Annual Increase
Acclaim Systems Inc - LD System Upgrades and Maintenance	\$25,192/mo	\$28,989/mo	\$3,796.50/mo	\$45,558.00

	FY10-FY11 (McKonly & Asbury LLP)	FY12-FY13 (Zelenkofske & Axelrod LLC)	Change
Lobbying Disclosure Audit (2 year contract)	\$168,000.00	\$126,030.00	(\$41,970.00)

ANNEX A

**TITLE 51. PUBLIC OFFICERS**

**PART III. LOBBYING DISCLOSURE**

**CHAPTER 53. REGISTRATION AND TERMINATION**

**§ 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 to the Department, made payable to the "Commonwealth of Pennsylvania." As of January 1, 2011, the biennial filing fee will be \$200. As of January 1, 2015, the biennial filing fee will be \$700 \$400.

\* \* \* \* \*



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

August 15, 2014

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

Re: Final Rulemaking of the Department of State, Bureau of Commissions, Elections  
and Legislation  
Lobbying Disclosure Registration Fee (16-56)

Dear Chairman Lutkewitte:

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

The Bureau of Commissions, Elections and Legislation, 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,

Caroline A. Bailey, Counsel  
Bureau of Commissions, Elections and  
Legislation

CAB/raf  
Enclosure

cc: Kevin P. Schmidt, Chief Counsel  
Department of State  
Cynthia Montgomery, Regulatory Counsel  
Department of State  
Jonathan Marks, Commissioner  
Bureau of Commissions, Elections and Legislation

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

**I.D. NUMBER:** 16 - 56

**SUBJECT:** Lobbying Disclosure Registration Fee

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

**TYPE OF REGULATION**

- ( ) 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
  - ( ) With Revisions      ( ) Without Revisions

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**FILING OF REGULATION**

<u>DATE</u>	<u>SIGNATURE</u>	<u>DESIGNATION</u>
		<u>HOUSE COMMITTEE - State Government</u>
8/15/14	<i>Pam Noyes</i>	MAJORITY CHAIR <u>Rep. Daryl Metcalfe</u>
8/15/14	<i>Reida Stutz</i>	MINORITY CHAIR <u>Rep. Mark Cohen</u>
		<u>SENATE COMMITTEE - State Government</u>
8/15	<i>Sen/Patrick Shroyer</i>	MAJORITY CHAIR <u>Senator Loyd Smucker</u>
8/15	<i>[Signature]</i>	MINORITY CHAIR <u>Senator Matt Smith</u>
8/15/14	<i>[Signature]</i>	<u>INDEPENDENT REGULATORY REVIEW COMMISSION</u>
_____	_____	<u>ATTORNEY GENERAL</u> (for Final Omitted only)
_____	_____	<u>LEGISLATIVE REFERENCE BUREAU</u> (for Proposed only)