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**TITLE 25 INDIANA DEPARTMENT OF
ADMINISTRATION**

Proposed Rule
LSA Document #04-172

DIGEST

Adds 25 IAC 6 concerning definitions of terms and phrases used in executive lobbying activity and provides for registration and regulatory procedures and requirements for executive lobbyists and enforcement of such regulation. Effective 30 days after filing with the secretary of state.

25 IAC 6

SECTION 1. 25 IAC 6 IS ADDED TO READ AS FOLLOWS:

ARTICLE 6. EXECUTIVE AGENCY LOBBYING

Rule 1. Definitions

25 IAC 6-1-1 Applicability

Authority: IC 4-13-1-7

Affected: IC 4-13.6; IC 5-22

Sec. 1. The definitions in this rule apply throughout this article. *(Indiana Department of Administration; 25 IAC 6-1-1)*

25 IAC 6-1-2 “Activity report” defined

Authority: IC 4-13-1-7

Affected: IC 4-13.6; IC 5-22

Sec. 2. “Activity report” means the activity report provided for by 25 IAC 6-4. *(Indiana Department of Administration; 25 IAC 6-1-2)*

25 IAC 6-1-3 “Commissioner” defined

Authority: IC 4-13-1-7

Affected: IC 4-13.6; IC 5-22

Sec. 3. “Commissioner” refers to the commissioner of the department or that person’s designee. *(Indiana Department of Administration; 25 IAC 6-1-3)*

25 IAC 6-1-4 “Compensation” defined

Authority: IC 4-13-1-7

Affected: IC 4-13.6; IC 5-22

Sec. 4. “Compensation” means anything of value given as payment for doing or refraining from doing an act. *(Indiana Department of Administration; 25 IAC 6-1-4)*

25 IAC 6-1-5 “Department” defined

Authority: IC 4-13-1-7

Affected: IC 4-13.6; IC 5-22

Sec. 5. “Department” means the Indiana department of administration. (*Indiana Department of Administration; 25 IAC 6-1-5*)

25 IAC 6-1-6 “Employer” defined

Authority: IC 4-13-1-7

Affected: IC 4-13.6; IC 5-22

Sec. 6. “Employer” means a person who engages an executive agency lobbyist. The term does not include any person who is a member of:

(1) a business;

(2) a trade;

(3) a professional;

(4) a civic; or

(5) any other membership;

organization that employs an executive agency lobbyist and does not directly employ such executive agency lobbyist. (*Indiana Department of Administration; 25 IAC 6-1-6*)

25 IAC 6-1-7 “Engage” defined

Authority: IC 4-13-1-7

Affected: IC 4-13.6; IC 5-22

Sec. 7. “Engage” means to make an arrangement whereby an individual is employed or retained for compensation to act for or on behalf of an employer to conduct executive agency lobbying. (*Indiana Department of Administration; 25 IAC 6-1-7*)

25 IAC 6-1-8 “Executive agency” defined

Authority: IC 4-13-1-7

Affected: IC 4-13.6; IC 5-22

Sec. 8. “Executive agency” means the office of an elected executive official or any other state agency, department, board, or commission, including bodies corporate and politic, controlled or directed by an elected executive official or otherwise subject to an elected executive official’s authority. (*Indiana Department of Administration; 25 IAC 6-1-8*)

25 IAC 6-1-9 “Executive agency decision” defined

Authority: IC 4-13-1-7

Affected: IC 4-13.6; IC 5-22

Sec. 9. “Executive agency decision” means a:

(1) regulatory decision; or

(2) decision of an executive agency regarding the expenditure of funds of the state or of an executive agency with respect to the award of:

(A) a contract;

(B) a grant;

(C) a lease; or

(D) any other financial arrangement;

under which such funds are distributed, paid, or allocated.

(*Indiana Department of Administration; 25 IAC 6-1-9*)

25 IAC 6-1-10 “Executive agency lobbying” defined

Authority: IC 4-13-1-7

Affected: IC 4-13.6; IC 5-22

Sec. 10. “Executive agency lobbying” means communicating by any means with any executive official with the purpose of influencing any executive agency decision, except as described in 25 IAC 6-3-6. (Indiana Department of Administration; 25 IAC 6-1-10)

25 IAC 6-1-11 “Executive agency lobbyist” defined

Authority: IC 4-13-1-7

Affected: IC 4-13.6; IC 5-22

Sec. 11. “Executive agency lobbyist” means any person who:

(1) engages in executive agency lobbying; and

(2) in any registration year, receives or expends an aggregate of five hundred dollars (\$500) in compensation or expenditures reportable under this article for executive agency lobbying, whether the compensation is solely for executive agency lobbying or the executive agency lobbying is incidental to that individual’s regular employment.

(Indiana Department of Administration; 25 IAC 6-1-11)

25 IAC 6-1-12 “Executive official” defined

Authority: IC 4-13-1-7

Affected: IC 4-13.6; IC 5-22

Sec. 12. “Executive official” means an officer or employee of an executive agency or members of boards and commissions whose principal duties are to formulate policy or to participate directly or indirectly in the preparation, review, or award of:

(1) contracts;

(2) grants;

(3) leases; or

(4) other financial arrangements;

with an executive agency. The department shall publicly list all executive agency personnel who qualify as executive officials under this article. (Indiana Department of Administration; 25 IAC 6-1-12)

25 IAC 6-1-13 “Expenditure” defined

Authority: IC 4-13-1-7

Affected: IC 4-13.6; IC 5-22

Sec. 13. “Expenditure” means:

(1) any:

(A) advance;

(B) conveyance;

(C) deposit;

(D) distribution;

(E) transfer of funds;

(F) loan;

(G) payment;

(H) gift;

(I) honorarium;

(J) pledge; or

(K) subscription;

of money or anything of value, including payment of salary; and

(2) any:

(A) contract;

(B) agreement;

(C) promise; or

(D) other obligation;

whether or not legally enforceable, to make an expenditure.

The term does not include any publication of a trade, industry, government, or professional association. *(Indiana Department of Administration; 25 IAC 6-1-13)*

25 IAC 6-1-14 “Immediate family” defined

Authority: IC 4-13-1-7

Affected: IC 4-13.6; IC 5-22

Sec. 14. “Immediate family” means a spouse residing in the person’s household and dependent children. *(Indiana Department of Administration; 25 IAC 6-1-14)*

25 IAC 6-1-15 “Influencing” defined

Authority: IC 4-13-1-7

Affected: IC 4-13.6; IC 5-22

Sec. 15. “Influencing” means:

- (1) promoting;**
- (2) supporting;**
- (3) influencing;**
- (4) modifying;**
- (5) opposing; or**
- (6) delaying;**

by any means. *(Indiana Department of Administration; 25 IAC 6-1-15)*

25 IAC 6-1-16 “Paid” defined

Authority: IC 4-13-1-7

Affected: IC 4-13.6; IC 5-22

Sec. 16. “Paid” means that payment has been made. *(Indiana Department of Administration; 25 IAC 6-1-16)*

25 IAC 6-1-17 “Pay” defined

Authority: IC 4-13-1-7

Affected: IC 4-13.6; IC 5-22

Sec. 17. “Pay” means the act of making a payment. *(Indiana Department of Administration; 25 IAC 6-1-17)*

25 IAC 6-1-18 “Payment” defined

Authority: IC 4-13-1-7

Affected: IC 4-13.6; IC 5-22

Sec. 18. “Payment” means:

- (1) a payment;**
- (2) a compensation;**
- (3) a reimbursement;**
- (4) a distribution;**
- (5) a transfer;**
- (6) a loan;**
- (7) an advance;**
- (8) a conveyance;**
- (9) a deposit;**
- (10) a gift;**
- (11) a pledge;**
- (12) a subscription; or**

(13) any other rendering; of money, property, services, or anything else of value, whether tangible or intangible, and any contract, agreement, promise, or other obligation, whether or not legally enforceable, to make a payment. (Indiana Department of Administration; 25 IAC 6-1-18)

25 IAC 6-1-19 “Person” defined

Authority: IC 4-13-1-7

Affected: IC 4-13.6; IC 5-22

Sec. 19. “Person” means the following:

- (1) A human being.**
- (2) A corporation.**
- (3) A limited liability company.**
- (4) A partnership.**
- (5) An association.**
- (6) A firm.**
- (7) A church.**
- (8) A religious group.**
- (9) An educational institution.**

(Indiana Department of Administration; 25 IAC 6-1-19)

25 IAC 6-1-20 “Public employee” defined

Authority: IC 4-13-1-7

Affected: IC 4-13.6; IC 5-22

Sec. 20. “Public employee” means an employee of the state or federal government or a political subdivision of either of those governments and includes an official or employee of any university, college, or other educational institution, presently existing or hereafter established in Indiana, for the purpose of providing programs of collegiate or university education or other post-high school education and that is supported in whole or in part by appropriations made by the general assembly. (Indiana Department of Administration; 25 IAC 6-1-20)

25 IAC 6-1-21 “Public official” defined

Authority: IC 4-13-1-7

Affected: IC 4-13.6; IC 5-22

Sec. 21. “Public official” means an individual who holds office in the executive, judicial, or legislative branch of the state or federal government or a political subdivision of either of those governments and includes an official or employee of any university, college, or other educational institution, presently existing or hereafter established in Indiana, for the purpose of providing programs of collegiate or university education or other post-high school education and that is supported in whole or in part by appropriations made by the general assembly. (Indiana Department of Administration; 25 IAC 6-1-21)

25 IAC 6-1-22 “Registrant” defined

Authority: IC 4-13-1-7

Affected: IC 4-13.6; IC 5-22

Sec. 22. “Registrant” means a person who is required to register under 25 IAC 6-3-1. (Indiana Department of Administration; 25 IAC 6-1-22)

25 IAC 6-1-23 “Registration statement” defined

Authority: IC 4-13-1-7

Affected: IC 4-13.6; IC 5-22

Sec. 23. “Registration statement” means the registration statement provided for by 25 IAC 6-3. (Indiana

Department of Administration; 25 IAC 6-1-23)

25 IAC 6-1-24 “Regulatory decision” defined

Authority: IC 4-13-1-7

Affected: IC 4-13.6; IC 5-22

Sec. 24. “Regulatory decision” means a decision made by an agency, board, or commission that has broad, universal application to all persons under the jurisdiction of such agency, board, or commission. Such regulatory decision specifically includes the adoption of:

- (1) an administrative rule;**
- (2) a bulletin;**
- (3) a directive; or**
- (4) any other policy statement or guideline;**

that the executive agency, board, or commission intends to apply generally to all persons under the jurisdiction of such agency, board, or commission. (Indiana Department of Administration; 25 IAC 6-1-24)

25 IAC 6-1-25 “Verified” defined

Authority: IC 4-13-1-7

Affected: IC 4-13.6; IC 5-22

Sec. 25. “Verified” means a signed statement that the document provided is truthful under penalty of perjury. (Indiana Department of Administration; 25 IAC 6-1-25)

Rule 2. Responsibility for the Administration of this Article

25 IAC 6-2-1 Administration and authority

Authority: IC 4-13-1-7

Affected: IC 4-13.6; IC 5-22

Sec. 1. The commissioner has the authority and responsibility for the administration of this article. (Indiana Department of Administration; 25 IAC 6-2-1)

25 IAC 6-2-2 Powers and duties

Authority: IC 4-13-1-7

Affected: IC 4-13.6; IC 5-22

Sec. 2. (a) The commissioner has the powers and duties specified in this article.

(b) The commissioner may do the following:

- (1) Convene and hold meetings as necessary.**
- (2) Make recommendations to the governor concerning administration of this article.**
- (3) Subject to 25 IAC 6-8, receive and hear any complaint alleging a violation of this article.**
- (4) Obtain information relevant to an audit conducted or a complaint filed under this article.**
- (5) Act as an advisor by providing advisory opinions to executive agency lobbyists on questions relating to the requirements of this article.**
- (6) Establish qualifications for and employ the personnel required to implement this article.**
- (7) Make reasonable and necessary expenditures of money appropriated to the commissioner.**
- (8) Do other things necessary and proper:**
 - (A) to implement this article; or**
 - (B) as requested by the governor.**

(Indiana Department of Administration; 25 IAC 6-2-2)

Rule 3. Registration Statements

25 IAC 6-3-1 Filings required

Authority: IC 4-13-1-7

Affected: IC 4-13.6; IC 5-22

Sec. 1. Each executive agency lobbyist and employer shall file annually with the commissioner a verified registration statement. (*Indiana Department of Administration; 25 IAC 6-3-1*)

25 IAC 6-3-2 Filings deadlines; effect of late filings

Authority: IC 4-13-1-7

Affected: IC 4-13.6; IC 5-22

Sec. 2. (a) Each registration statement shall be filed:

(1) not later than January 15; or

(2) within fifteen (15) days after the registrant becomes an executive agency lobbyist;

whichever is later. Each registration statement expires on December 31 of the year for which it was issued. The commissioner may accept registration statements before January 1 of the year to which they apply, as the commissioner determines.

(b) Upon thirty (30) days advance written notice to the executive agency lobbyist, the commissioner may impose a suspension of the privilege of executive agency lobbying until the statement is filed.

(c) The suspension shall continue until the registration statement is filed.

(d) The commissioner may waive the suspension if the commissioner determines that the circumstances make imposition of the suspension inappropriate.

(e) The commissioner may grant an extension of the filing deadline in extenuating circumstances. (*Indiana Department of Administration; 25 IAC 6-3-2*)

25 IAC 6-3-3 Information required in filings for lobbyists

Authority: IC 4-13-1-7

Affected: IC 4-13.6; IC 5-22

Sec. 3. The registration statement of each executive agency lobbyist shall include the following:

(1) The executive agency lobbyist's name, business address, and telephone number.

(2) The name, business address, telephone number, and kind of business of each employer who engages the executive agency lobbyist.

(3) The executive agency lobbyist's primary occupation and the name or names of the executive agency lobbyist's place of business if different than those specified in subdivision (2).

(4) The subject matter of the executive agency lobbying for each employer of the executive agency lobbyist.

(*Indiana Department of Administration; 25 IAC 6-3-3*)

25 IAC 6-3-4 Information required in filings for employers

Authority: IC 4-13-1-7

Affected: IC 4-13.6; IC 5-22

Sec. 4. The registration statement of each employer shall include the following:

(1) The employer's:

(A) full name;

(B) business address;

(C) telephone number; and

(D) kind of business;

and the full name of the individual who controls the business, the partners, if any, and officers.

(2) The full name, business address, and telephone number of each person engaged by the employer as an

executive agency lobbyist.

(3) The subject matter for which the employer has employed or engaged an executive agency lobbyist.
(Indiana Department of Administration; 25 IAC 6-3-4)

25 IAC 6-3-5 Amendment procedure; termination

Authority: IC 4-13-1-7

Affected: IC 4-13.6; IC 5-22

Sec. 5. If a material change occurs in any of the information contained in a registration statement, an appropriate amendment shall be filed within fifteen (15) days after the change. Each registered executive agency lobbyist may file a notice of termination within fifteen (15) days after the executive agency lobbyist ceases the activity that required the registration; however, this does not relieve the executive agency lobbyist of the reporting requirements of 25 IAC 6-4. (Indiana Department of Administration; 25 IAC 6-3-5)

25 IAC 6-3-6 Exclusions; nonapplicability

Authority: IC 4-13-1-7

Affected: IC 4-13.6; IC 5-22

Sec. 6. (a) This rule and 25 IAC 6-4 are not applicable to any full-time or part-time public:

- (1) official acting in an official capacity; or
- (2) employee acting within the scope of employment.

(b) This rule and 25 IAC 6-4 are not applicable to any:

- (1) newspaper;
- (2) other periodical of general circulation;
- (3) book publisher;
- (4) news wire service;
- (5) radio station; or
- (6) television station;

including any individual who owns, publishes, or is employed by any such newspaper or periodical, radio station, or television station, that in the ordinary course of business publishes news items, editorials, or other comments or paid advertisement that directly or indirectly attempts to influence executive decisions if such newspaper, periodical, book publisher, radio station, television station, or individual engages in no further or other activities in connection with influencing executive decisions other than to appear before an executive official at a public meeting of the executive agency in support of or in opposition to such executive decision.

(c) This rule and 25 IAC 6-4 are not applicable to an individual invited, by any executive official, to testify before the executive official at a public meeting of the executive agency.

(d) Notwithstanding the definition of executive agency lobbying as specified in 25 IAC 6-1-10, in no instance shall this article be construed to prohibit in any way free and open communication between any citizen of the state and executive officials. Specifically, executive agency lobbying does not include the following:

- (1) The action of any person having a direct interest in executive agency decisions, if the person acting on his or her own behalf or acting under Article 1, Section 31 of the Constitution of the State of Indiana assembles together with other persons for the common good, petitions any person described in this subsection for the redress of grievances, or other proper purposes.
- (2) Contacts made for the sole purpose of gathering information contained in public records.
- (3) Appearances before public meetings of executive agencies, including the submission of written comments on the public record regarding the adoption of a proposed administrative rule.

(e) This rule and 25 IAC 6-4 are not applicable to communication with or to:

- (1) the Indiana department of commerce;
- (2) the Indiana development finance authority;
- (3) the film commission;

(4) the Indiana business modernization and technology corporation; or
(5) any other executive agency;
that has responsibility for economic development, by or on behalf of a business, nonprofit organization, or municipality for the purpose of developing industrial, research, technology, or commercial prospects. *(Indiana Department of Administration; 25 IAC 6-3-6)*

Rule 4. Activity Reports

25 IAC 6-4-1 Required activity reports from lobbyists

Authority: IC 4-13-1-7

Affected: IC 4-13.6; IC 5-22

Sec. 1. Each executive agency lobbyist and employer shall file semiannually with the commissioner a verified activity report. The executive agency lobbyist shall file a separate activity report relating to each person from whom payment is received for executive agency lobbying. *(Indiana Department of Administration; 25 IAC 6-4-1)*

25 IAC 6-4-2 Filing time frames; effect of late filings

Authority: IC 4-13-1-7

Affected: IC 4-13.6; IC 5-22

Sec. 2. (a) One (1) activity report shall be filed not later than November 30, covering the period from May 1 through October 31. The other activity report shall be filed not later than May 31, covering the period from November 1 through April 30.

(b) Upon thirty (30) days advance written notice to the executive agency lobbyist, the commissioner may impose a suspension of the privilege of executive agency lobbying until the activity report is filed.

(c) The suspension shall continue until the activity report is filed.

(d) The commissioner may waive the suspension if the commissioner determines that the circumstances make imposition of the suspension inappropriate.

(e) The commissioner may grant an extension of the filing deadline in extenuating circumstances. *(Indiana Department of Administration; 25 IAC 6-4-2)*

25 IAC 6-4-3 Required information for activity reports

Authority: IC 4-13-1-7

Affected: IC 4-13.6; IC 5-22

Sec. 3. (a) The activity reports of each executive agency lobbyist and employer shall include the following:

(1) A complete and current statement of the information required to be supplied under 25 IAC 6-3-3 or 25 IAC 6-3-4, as applicable.

(2) Total expenditures on executive agency lobbying (prorated, if necessary) broken down to include at least the following categories:

(A) The amount of compensation paid by the employer to executive agency lobbyists who perform executive agency lobbying services.

(B) The amount of reimbursement paid by the employer to executive agency lobbyists who perform executive agency lobbying services.

(C) Receptions.

(D) Entertainment, including meals.

(3) A statement of expenditures made by the registrant or his or her agent to benefit:

(A) an executive official; or

(B) a member of the immediate family of anyone included in clause (A). This rule does not apply to compensation paid to the spouse or dependent children of an executive official for goods or services provided

by the spouse or dependent children in the ordinary course of business to an executive agency lobbyist or an employer.

(4) A list of the general subject matter concerning which an executive agency lobbying effort was made within the registration period.

(5) The name of the beneficiary of each expenditure made by the executive agency lobbyist or the executive agency lobbyist's agent that is required to be reported under subdivision (3).

(b) In the second semiannual report, when total amounts are required to be reported, totals shall be stated both for the:

(1) period covered by the statement; and

(2) entire reporting year.

(c) An amount reported under this section is not required to include the following:

(1) Overhead costs.

(2) Charges for any of the following:

(A) Postage.

(B) Express mail service.

(C) Stationery.

(D) Facsimile transmissions.

(E) Telephone calls.

(F) Copies.

(3) Expenditures for the personal services of clerical and other support staff persons who are not executive agency lobbyists.

(4) Expenditures for leasing or renting an office.

(5) Expenditures for lodging, meals, and other personal expenses of the executive agency lobbyist.

(Indiana Department of Administration; 25 IAC 6-4-3)

25 IAC 6-4-4 Retention of documents related to filings

Authority: IC 4-13-1-7

Affected: IC 4-13.6; IC 5-22

Sec. 4. Each executive agency lobbyist shall obtain and preserve all documents necessary to substantiate the activity reports required under this rule for four (4) years from the date of filing of the report containing these items. The executive agency lobbyist shall make these materials available for inspection upon request by the commissioner. *(Indiana Department of Administration; 25 IAC 6-4-4)*

25 IAC 6-4-5 Termination statements

Authority: IC 4-13-1-7

Affected: IC 4-13.6; IC 5-22

Sec. 5. Every person who files a notice of termination as provided in 25 IAC 6-3-5 must file a termination report covering the semiannual reporting period or portion thereof immediately preceding the termination of the registration statement; such report shall contain the information required by section 3 of this rule. *(Indiana Department of Administration; 25 IAC 6-4-5)*

Rule 5. Duties of the Commissioner

25 IAC 6-5-1 Duty to establish forms; availability of forms

Authority: IC 4-13-1-7

Affected: IC 4-13.6; IC 5-22

Sec. 1. The commissioner shall prescribe forms for the registration statements, activity reports, and other documents required to be filed under this article and make the forms available to persons required to file the registration statements, activity reports, and other documents. *(Indiana Department of Administration; 25 IAC 6-5-*

1)

25 IAC 6-5-2 Requirement for manual of procedures

Authority: IC 4-13-1-7

Affected: IC 4-13.6; IC 5-22

Sec. 2. The commissioner shall prepare and publish a manual setting forth recommended, uniform methods of reporting for use by persons required to file statements and reports under this article. (Indiana Department of Administration; 25 IAC 6-5-2)

25 IAC 6-5-3 Availability of filed documents as public records

Authority: IC 4-13-1-7

Affected: IC 4-13.6; IC 5-14; IC 5-22

Sec. 3. The commissioner shall make statements, reports, and other documents filed with the commissioner under this article available for public inspection and copying during regular office hours and make copying facilities available to the public in accordance with the Access to Public Records Act, IC 5-14. (Indiana Department of Administration; 25 IAC 6-5-3)

25 IAC 6-5-4 Index of filed documents

Authority: IC 4-13-1-7

Affected: IC 4-13.6; IC 5-22

Sec. 4. The commissioner shall compile and maintain an index of all reports and statements filed with the commissioner under this article to facilitate public access to these reports and statements. (Indiana Department of Administration; 25 IAC 6-5-4)

25 IAC 6-5-5 Annual report required

Authority: IC 4-13-1-7

Affected: IC 4-13.6; IC 5-22

Sec. 5. The commissioner shall prepare and publish annual summaries of statements and reports filed with the commissioner under this article. (Indiana Department of Administration; 25 IAC 6-5-5)

25 IAC 6-5-6 Annual audit requirements

Authority: IC 4-13-1-7

Affected: IC 4-13.6; IC 5-22

Sec. 6. The commissioner shall annually inspect and audit at least five percent (5%) of all registration statements and reports filed with the commissioner under this rule by requiring the registrant to produce verifying documents. The statements and reports inspected and audited shall be selected at random by a computer random number generator. Nothing in this rule shall be construed as prohibiting the commissioner from inspecting and auditing any statement or report if the commissioner has reason to believe that a violation of this article may have occurred. (Indiana Department of Administration; 25 IAC 6-5-6)

25 IAC 6-5-7 Notification of errors in filings; procedures for corrections

Authority: IC 4-13-1-7

Affected: IC 4-13.6; IC 5-22

Sec. 7. The commissioner shall notify by certified mail, return receipt requested, persons required to file statements and reports under this article of any violations or errors discovered during inspections or audits conducted under section 6 of this rule within thirty (30) days of the discovery of the errors or violations. The person required to file statements and reports under this article shall within thirty (30) days from receipt of notification file a corrected statement or report meeting all requirements set forth in this article. If no corrected

statement or report is filed within thirty (30) days, or if violations remain following the filing of a corrected report or statement, the commissioner may impose a suspension of the privilege of executive agency lobbying until the registration statement or report is corrected or filed. (*Indiana Department of Administration; 25 IAC 6-5-7*)

25 IAC 6-5-8 Retention schedule

Authority: IC 4-13-1-7

Affected: IC 4-13.6; IC 5-22

Sec. 8. The commissioner shall preserve statements and reports filed with the commissioner under this article for a period of four (4) years from the date of receipt. (*Indiana Department of Administration; 25 IAC 6-5-8*)

Rule 6. Prohibitions

25 IAC 6-6-1 Prohibited compensation for public employees

Authority: IC 4-13-1-7

Affected: IC 4-13.6; IC 5-22

Sec. 1. Subject to 25 IAC 6-3-6(a), the receiving of compensation, other than the regular compensation of such elected or appointed officials, for executive agency lobbying is prohibited for any full-time public official or public employee in the state. (*Indiana Department of Administration; 25 IAC 6-6-1*)

25 IAC 6-6-2 Persons barred from executive agency lobbying

Authority: IC 4-13-1-7

Affected: IC 4-13.6; IC 5-22; IC 6-8.1-8-2

Sec. 2. The following persons may not be registered as an executive agency lobbyist and are prohibited from engaging in executive agency lobbying under this article:

(1) Any individual convicted of a felony for violating any law while the individual was an officer or employee of any executive agency or political subdivision.

(2) Any person convicted of a felony relating to executive agency lobbying.

(3) Any person convicted of a felony who:

(A) is in prison;

(B) is on probation; or

(C) has been in prison or on probation within the immediate past one (1) year.

(4) Any person:

(A) whose statement or report required to be filed under this article was found to be materially incorrect; and

(B) who has not filed a corrected statement or report within thirty (30) days after being requested to do so by the commissioner.

(5) Any person who is on the most recent tax warrant list established and published by the department of state revenue until:

(A) the person provides a statement to the commissioner indicating that the person's delinquent tax liability has been satisfied; or

(B) the commissioner receives a notice from the commissioner of the department of state revenue under IC 6-8.1-8-2(k).

(*Indiana Department of Administration; 25 IAC 6-6-2*)

Rule 7. Enforcement

25 IAC 6-7-1 Enforcement by commissioner

Authority: IC 4-13-1-7

Affected: IC 4-13.6; IC 5-22

Sec. 1. The commissioner or his or her delegatee is responsible for investigating alleged or suspected violations and enforcing this article. *(Indiana Department of Administration; 25 IAC 6-7-1)*

25 IAC 6-7-2 Violation of executive agency lobbying rules

Authority: IC 4-13-1-7

Affected: IC 4-13.6; IC 5-22

Sec. 2. Any person who knowingly or intentionally violates any provision of 25 IAC 6-3, 25 IAC 6-4, or 25 IAC 6-6 has engaged in prohibited executive agency lobbying. *(Indiana Department of Administration; 25 IAC 6-7-2)*

25 IAC 6-7-3 Executive agency lobbying activity after suspension

Authority: IC 4-13-1-7

Affected: IC 4-13.6; IC 5-22

Sec. 3. Any person who engages in executive agency lobbying after being suspended from such activities by the commissioner engages in prohibited executive agency lobbying. *(Indiana Department of Administration; 25 IAC 6-7-3)*

25 IAC 6-7-4 Conspiracy to violate executive agency lobbying rules

Authority: IC 4-13-1-7

Affected: IC 4-13.6; IC 5-22

Sec. 4. An executive official who knowingly or intentionally conspires with an executive agency lobbyist in the violation of section 2 or 3 of this rule commits prohibited executive agency lobbying. *(Indiana Department of Administration; 25 IAC 6-7-4)*

25 IAC 6-7-5 Termination of registration; personnel action

Authority: IC 4-13-1-7

Affected: IC 4-13.6; IC 4-21.5; IC 5-22

Sec. 5. If the commissioner after a hearing conducted under IC 4-21.5-3 finds that an individual has engaged in prohibited executive agency lobbying, the individual may terminate such individual's registration for a period up to two (2) years. If the individual is a state employee, the individual may be punished pursuant to policy established by the appropriate supervising official. *(Indiana Department of Administration; 25 IAC 6-7-5)*

Rule 8. Commissioner Investigations and Hearings

25 IAC 6-8-1 Conducting of investigation

Authority: IC 4-13-1-7

Affected: IC 4-13.6; IC 5-22

Sec. 1. The commissioner shall conduct an investigation under this rule of a complaint alleging a violation of this article. *(Indiana Department of Administration; 25 IAC 6-8-1)*

25 IAC 6-8-2 Written complaints; signature required

Authority: IC 4-13-1-7

Affected: IC 4-13.6; IC 5-22

Sec. 2. A complaint must be in writing and be signed by the individual making the complaint. *(Indiana Department of Administration; 25 IAC 6-8-2)*

25 IAC 6-8-3 Notification of person investigated

Authority: IC 4-13-1-7

Affected: IC 4-13.6; IC 5-22

Sec. 3. When a complaint is filed, the commissioner shall promptly send a copy of the complaint to the person alleged to have committed the violation of this article. *(Indiana Department of Administration; 25 IAC 6-8-3)*

25 IAC 6-8-4 Dismissal and notification

Authority: IC 4-13-1-7

Affected: IC 4-13.6; IC 5-22

Sec. 4. If the commissioner determines that the complaint does not allege facts sufficient to constitute a violation of this article, the commissioner shall do both of the following:

(1) Dismiss the complaint.

(2) Notify the complainant and the respondent of the commissioner's action.

(Indiana Department of Administration; 25 IAC 6-8-4)

25 IAC 6-8-5 Basis for investigation; dismissal after investigation; hearing time established

Authority: IC 4-13-1-7

Affected: IC 4-13.6; IC 4-21.5; IC 5-22

Sec. 5. (a) If the commissioner determines the complaint alleges facts sufficient to constitute a violation of this article, the commissioner shall promptly investigate the allegation.

(b) If after a preliminary investigation the commissioner finds that probable cause does not exist to support an allegation of a violation of this article, the commissioner shall do the following:

(1) Dismiss the complaint.

(2) Notify the complainant and the respondent of the commissioner's action.

(c) If the commissioner finds that probable cause exists to support an allegation of a violation of this article, the commissioner shall hold a hearing on the matter not more than thirty (30) days after making the determination. IC 4-21.5 applies to a hearing held under this subsection. *(Indiana Department of Administration; 25 IAC 6-8-5)*

Rule 9. Severability

25 IAC 6-9-1 Severability

Authority: IC 4-13-1-7

Affected: IC 4-13.6; IC 5-22

Sec. 1. If any provision of this article as now or later amended or its application to any person or circumstance is held invalid, the invalidity shall not affect other provisions that can be given effect without the invalid provision or application. *(Indiana Department of Administration; 25 IAC 6-9-1)*

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on September 20, 2004 at 1:00 p.m., at the Indiana Government Center-South, 402 West Washington Street, Conference Center Room C, Indianapolis, Indiana the Indiana Department of Administration will hold a public hearing on a proposed new rule concerning executive agency lobbying. Copies of these rules are now on file at the Indiana Government Center-South, 402 West Washington Street, Room W479 and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

Daniel B. Dovenbarger
Deputy Commissioner
Indiana Department of Administration