

ORDINANCE NO. 16-006

AN ORDINANCE OF THE COUNTY OF ORANGE, CALIFORNIA, AMENDING SECTIONS 1-1-81 AND 1-1-84 OF DIVISION 1, TITLE 1 OF THE CODIFIED ORDINANCES OF THE COUNTY OF ORANGE TO PROVIDE FOR THE CAMPAIGN FINANCE AND ETHICS COMMISSION'S ENFORCEMENT OF THE LOBBYIST REGISTRATION AND REPORTING ORDINANCE.

The Board of Supervisors of the County of Orange ordains as follows:

SECTION 1. Sections 1-1-81 and 1-1-84 of Division 1, Title 1 of the Codified Ordinances of the County of Orange are hereby amended to read as follows:

ARTICLE 5. - LOBBYIST REGISTRATION AND REPORTING

Sec. 1-1-80. Definitions.

For the purpose of this article:

- (a) "Administrative action" means:
- (1) The proposal, drafting, development, consideration, amendment, enactment, or defeat of any rule, regulation, policy, or other action in any proceeding that will apply generally to a group or class of persons; or
 - (2) Any decision to initiate, defend, appeal, or take any other action regarding, litigation by or against the County of Orange or any official or employee of the County of Orange.
- (b) Except as provided in subsection (3), below, "County lobbyist" means any person who:
- (1) Receives compensation of \$500.00 or more in any calendar month for engaging in lobbying activities, as defined in subdivision (h), below; or
 - (2) Is employed by his or her employer and receives compensation of \$500.00 or more in any calendar month for engaging in lobbying activities, as defined in subdivision (g), below. For the purposes of this article, an "employer" shall include, but not be limited to, any corporation, partnership, limited liability company, labor organization, labor union, or any other business entity.
 - (3) The definition of a "County lobbyist" shall not apply to representatives of corporations organized under Section 501(c)(3) or Section 501(c)(6) of the United States Internal Revenue Code who are not seeking grants from, or contracts with, the County of Orange.
- (c) "County lobbyist employer" means any person, other than a lobbying firm, who either:

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- (1) Employs one or more County lobbyists for economic consideration, other than reimbursement for reasonable travel expenses, for the purpose of engaging in lobbying activities; or
- (2) Contracts for the services of a County lobbying firm for economic consideration, other than reimbursement for reasonable travel expenses, for the purpose of engaging in lobbying activities.
- (d) "County lobbying firm" means an individual County lobbyist or a corporation, partnership, limited liability company, labor organization, labor union, or any other business entity that employs or is controlled or managed by a County lobbyist.
- (e) "County Supervisor" means any person elected or appointed to the County of Orange Board of Supervisors in a current term.
- (f) "Influencing official action" means promoting, supporting, influencing, modifying, opposing, or delaying any administrative, legislative, or quasi-judicial action of the Orange County Board of Supervisors, including but not limited to, soliciting County contracts or funds, by any means, including but not limited to the provision or use of information, statistics, studies or analyses.
- (g) "Legislative action" means the proposal, drafting, development, consideration, amendment, enactment, or defeat of any County ordinance, expenditure, budget, or the components thereof.
- (h) "Lobbying activities" means any oral, written, or electronic communication to a County Supervisor, made directly or indirectly, for the purpose of persuading or influencing official actions or decisions of the Orange County Board of Supervisors. Provided, however, lobbying activities shall not include:
 - (1) A request for information or inquiry about the facts or status of any matter when the request is not made to attempt to influence official action, or
 - (2) A written comment filed in the course of a public proceeding or any other communication that is made on the record at a public meeting, or
 - (3) A written communication as a petition for official action and required to be a public record pursuant to County procedures provided it is publicly recorded and disclosed before the vote or action, or
 - (4) A written response to a request by a County Supervisor or other County employee for specific information, or
 - (5) A communication made by an elected official or public employee acting in his or her official capacity, or
 - (6) A response to a public notice soliciting communications from the public and directed to the County Supervisor or other County employee specifically designated in the notice to receive such communications, or

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- (7) A communication by an attorney or advocate made solely in connection with his or her duties representing a party to an administrative proceeding the decision of which is reviewable by a court pursuant to California Code of Civil Procedure Section 1094.5.
- (8) A written communication applying for a County grant or responding to a County solicitation for goods or services.
- (i) "Quasi-judicial action" means:
 - (1) The consideration or re-consideration of the granting or denial of any permit, grant license or other entitlement of use;
 - (2) The awarding, granting or denial of any County contract for the purchase or sale of property, goods or services by the County or any agency of the County; and
 - (3) The awarding, granting or denial of any County contract with any public employee bargaining unit.

Any other term not defined by this section but defined in the California Political Reform Act (Title 9 of the California Government Code) or the California Code of Regulations enacted thereto, shall govern the interpretation of this article.

Sec. 1-1-81. Registration and annual reporting.

- (a) Within ten (10) days of becoming a County lobbyist, and annually thereafter, that person shall register as such with the Campaign Finance and Ethics Commission ("Commission") and file the necessary completed registration form supplied by the Commission.
- (b) The Registration Form supplied by the Commission shall require the County lobbyist to disclose all the following:
 - (1) The full name, business address, telephone number, and e-mail address of the County lobbyist;
 - (2) The full name, business address, telephone number and e-mail address of each County lobbyist, employer, person or entity that has contracted for the services of the retained County lobbyist to conduct lobbying activities on its behalf.
- (c) An Amendment to Registration Form must be completed and filed by the County lobbyist with the Commission within ten (10) days of any change in the accuracy of the information reported on the Registration Form, including, but not limited to, any termination of services by the County lobbyist and the addition or loss of any County lobbyist employer.
- (d) Within ninety (90) days from the operative date of this article, County lobbyist reports shall be made available for public inspection on the County's website.

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Sec. 1-1-82. Prohibited acts.

No County lobbyist or County lobbying firm shall:

- (a) Do anything with the purpose of placing any County Supervisor under personal obligation to the County lobbying firm, or the County lobbyist's or the firm's employer. However, nothing in this subdivision shall be construed to prohibit a County Supervisor from conducting personal, non-County related business with any business entity on terms that are available to members of the public when such terms are offered in the normal course of business by the business entity and are offered without regard to the County Supervisor's official status.
- (b) Deceive any County Supervisor or any member of any County Supervisor's staff with regard to any material fact pertinent to any pending or proposed legislative, administrative, or quasi-judicial action.
- (c) Cause or influence the introduction of any legislative, administrative, or quasi-judicial action for the purpose of thereafter being employed to secure its passage or defeat.
- (d) Attempt to create a fictitious appearance of public favor or disfavor of any proposed legislative, administrative, or quasi-judicial action or to cause any communication to be sent to any County official in the name of any fictitious person or in the name of any real person, except with the consent of such real person.
- (e) Represent, either directly or indirectly, that the County lobbyist or County lobbying firm can control the official action of any County official.

Sec. 1-1-83. Filing fees.

- (a) Each County lobbyist, County lobbying firm, and/or lobbyist employer shall pay a filing fee when filing or renewing a Registration Form pursuant to Section 1-1-81 according to the following fee schedule:

	Initial Registration	Annual renewal of Registration
County Lobbyist	\$75.00	\$50.00 effective January 1, 2012, and for each calendar year thereafter
County Lobbying Firm	N/A	N/A
County Lobbyist Employer	N/A	N/A

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(b) Fees associated with the Registration and Reporting of County Lobbyist(s), County Lobbyist Firm(s), and County Lobbyist Employer(s) are levied for the purpose of covering the cost of administering the ordinance.

Sec. 1-1-84. Enforcement.

- (a) Violations of this Article shall be investigated and administratively enforced pursuant to section 1-2-112 of the County Campaign Finance and Ethics Commission Ordinance.
- (b) If a County lobbying firm report is filed after its due date, the Commission shall impose the following penalties:
 - (1) Written warning letter sent to the filer for filings made within the first two (2) weeks after the due date of the filing.
 - (2) Twenty five dollars (\$25.00) per week for the next two (2) weeks after the due date of the filing;
 - (3) Fifty dollars (\$50.00) per week for the next two (2) weeks if the filing is not made within four (4) weeks after the due date;
 - (4) Seventy five dollars (\$75.00) per week until the date that the filer comes into compliance with the provisions of this article or the date that any other penalties are imposed by the Commission as provided for in this article, whichever occurs first, if the filing is not made within six (6) weeks after the due date.

A penalty imposed under this subsection (a) shall not exceed five hundred dollars (\$500.00).

(b) Any person who knowingly, intentionally, or negligently violates the provisions of this article shall be liable in a civil action brought by the Office of the County Counsel. Any violation of the provisions of this article may result in a civil penalty no greater than two thousand five hundred dollars (\$2,500.00) for each violation.

Sec. 1-1-85. Severability.

The provisions of this article are severable. If any provision of this article or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

Sec. 1-1-86. Operative date.

The provisions of this article shall become operative on July 1, 2011.

This ordinance shall take effect and be in full force thirty (30) days from and after its passage and before the expiration of fifteen (15) days after the passage thereof, shall be published once in an adjudicated newspaper in the County of Orange.

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THE FOREGOING was PASSED and ADOPTED by the following vote of the Orange County Board of Supervisors on July 12, 2016, to wit:

AYES: Supervisors: TODD SPITZER, SHAWN NELSON, MICHELLE STEEL,
LISA A. BARTLETT

NOES:

EXCUSED: ANDREW DO

ABSTAINED:

_____/S/_____

ROBIN STIELER, Clerk of the Board of Supervisors, County of Orange, California

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