

Senate State & Local Government Committee Amendment

AMENDMENT NO. _____

Signature of Sponsor

FILED
Date _____
Time _____
Clerk _____
Comm. Amdt. _____

AMEND Senate Bill No. 80 House Bill No. 90

by deleting all of the language after the enacting clause and by substituting instead the following:

SECTION 1. This act shall be referred to as the "Lobbying Reform Act of 1995."

SECTION 2. Tennessee Code Annotated, Section 3-6-102(8), is amended by deleting from the first sentence of the subsection the phrase "any of which are valued at fifty dollars (\$50.00) or more," and by deleting the last sentence of the subsection.

SECTION 3. Tennessee Code Annotated, Title 3, Chapter 6, Part 1, is amended by adding the following as a new section to be appropriately designated:

Section ____.

(a)(1) No lobbyist or employer of a lobbyist may provide a gift, directly or indirectly, to a candidate for public office, official in the legislative branch, official in the executive branch, or immediate family of such candidate or official.

(2) A candidate for public office, an official in the legislative branch, or an official in the executive branch may not solicit or accept directly or indirectly a gift from a lobbyist or an employer of a lobbyist.

(b) The following are not subject to the prohibition in subsection (a):

(1) Benefits resulting from business, employment, or other outside activities of a candidate, official or their immediate family, if such benefits are customarily provided to others in similar circumstances and are not enhanced due to the status of the candidate or official;

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(2) Informational materials in the form of books, articles, periodicals, other written materials, audiotapes, videotapes, or other forms of communication;

(3) A gift given by an individual if the gift is given for a nonbusiness purpose and is motivated by a close personal friendship and not by the position of the candidate or official.

(A) A gift shall not be considered to be given for a nonbusiness purpose if the individual giving the gift seeks:

(i) to deduct the value of such gift as a business expense on the individual's federal income tax return; or

(ii) direct or indirect reimbursement or any other compensation for the value of the gift from a client or employer.

(B) In determining if the giving of a gift is motivated by a close personal friendship, at least the following factors shall be considered:

(i) The history of the relationship between the individual giving the gift and the recipient of the gift, including whether or not gifts have previously been exchanged by such individuals;

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(ii) Whether the gift was purchased by the individual who gave the item; and

(iii) Whether the individual who gave the gift also gave the same or similar gifts to other candidates, officials, or their immediate family at the same time;

(4) Sample merchandise, promotional items, and appreciation tokens, if they are routinely given to customers, suppliers or potential customers or suppliers in the ordinary course of business;

(5) Unsolicited tokens or awards of appreciation, honorary degrees, or bona fide awards in recognition of public service in the form of a plaque, trophy, desk item, wall memento and similar items, provided that any such item shall not be in a form which can be readily converted to cash;

(6) Opportunities and benefits made available to all members of an appropriate class of the general public, including but not limited to:

(A) Discounts afforded to the general public or specified groups or occupations under normal business conditions except that such discounts may not be based on the status of the candidate or official;

(B) Prizes and awards given in public contests; and

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(C) Benefits of participation in events held within the state and sponsored by, or for the benefit of, charitable organizations as defined in Section 48-3-501(1); provided that such events must be open to participation by persons other than candidates, officials or their immediate family and any benefits received must not be enhanced due to the status of the candidate or official, or provided that invitations are extended to the entire membership of the general assembly;

(7) Tickets to athletic events involving teams representing in-state schools, colleges and universities or to other events sponsored by such institutions, if offered by the involved institution, and benefits of attendance at political events or fund-raisers sponsored by candidates for public office or other political organizations, and/or tickets to charitable, cultural, educational or political events held within the state, when customarily provided as a courtesy to all candidates for an office or public officials of similar rank in the event's jurisdiction;

(8) Expenses for out of state travel, if such travel is paid for, reimbursed, or sponsored by a government or an association of elected government officials or any other group or association which is an umbrella organization for public officials.

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(9) Food, refreshments, meals, foodstuffs or beverages that are provided in connection with an event to which invitations are extended to the entire membership of the general assembly, a committee of either or both houses of the general assembly, or a delegation in the general assembly from two (2) or more senatorial districts.

(c) Nothing herein shall prohibit a city, county or chamber of commerce from hosting and/or funding an activity where the entire general assembly is invited as a group to a special activity within that governmental entity's jurisdiction. County and municipal groups, and state colleges and universities are exempted from the prohibitions in the section when access to facilities or events which they sponsor is permitted to all members of the general assembly, a standing or statutory committee of either or both houses of the general assembly, or all members whose districts are located within the county of such group, college or university.

(d) A gift made contrary to this section shall not be a violation of the section if the candidate, official or their immediate family member does not use the gift and returns it to the donor within the latter of ten (10) days of receipt or ten (10) days of having knowledge that the gift was a violation or pays consideration of equal or greater value within the latter of ten (10) days of receipt or ten (10) days of having knowledge that the gift was a violation.

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SECTION 4. Tennessee Code Annotated, Section 3-6-102(15)(A), is amended by deleting the phrase "who takes any administrative action" and by adding after the word "means" the words "the governor, any member of the governor's staff," and by deleting the words "state agency" and substituting in their place the words "executive department or agency".

SECTION 5. Tennessee Code Annotated, Section 3-6-106(b)(2), is amended by deleting the subsection in its entirety and substituting the following:

(2) An itemized list by date, beneficiary, amount, and circumstance of the transaction of each political contribution of more than one hundred dollars (\$100) made by the registrant or anyone acting at the specific direction of the registrant to benefit a candidate for public office, an official in the legislative branch, or an official in the executive branch.

SECTION 6. Tennessee Code Annotated, Section 3-6-106(b)(3),(4),(5) and (6), is amended by deleting those subsections in their entirety.

SECTION 7. Tennessee Code Annotated, Section 3-6-108, is amended by adding the following new subdivision to be appropriately designated:

() No lobbyist shall serve as a member of a state board or commission.

SECTION 8. Tennessee Code Annotated, Section 3-6-110(b)(2), is amended by adding at the end of the first sentence of that subsection the following:

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except that the registry for a violation of Section 3 may only assess a civil penalty up to two hundred percent (200%) of the value of any gift or twenty-five dollars (\$25) whichever is greater. For any second or subsequent violation of Section 3 by the same person, the registry shall be empowered in the alternative to impose any other penalty contained in subsections (b)(2) and (b)(3).

SECTION 9. Tennessee Code Annotated, Section 3-6-110(c), is amended by adding at the end of the first sentence the words "or to have violated the provisions of Section 3 two (2) or more times".

SECTION 10. Tennessee Code Annotated, Section 3-6-102, is amended by adding the following as an appropriately designated subsection:

() "Employer of a lobbyist" means any person or entity that employs or retains another person to lobby. In the event that a corporation, labor organization, or membership organization employs or retains a person to lobby, employees, officers, directors, or members of such entity shall not be deemed to be an employer of such lobbyist.

SECTION 11. Tennessee Code Annotated, Section 3-6-102(16), is amended by substituting a period "." for the semicolon ";" at the end of the subsection and by adding the following new sentence after the period:

"Official in the legislative branch" shall also include the secretary of state, treasurer, and comptroller of the treasury and any employee of such offices;

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SECTION 12. Tennessee Code Annotated, Title 3, Chapter 6, is amended by adding the following as a new section to be appropriately designated:

Section ____.

(a) Any prizes, benefits or awards acquired by an official in the legislative branch as the result of purchasing transportation or lodging using state funds shall accrue to the benefit of the office of legislative administration to be used for travel on state business.

(b) Any prizes, benefits or awards acquired by an official in the executive branch as the result of purchasing transportation or lodging using state funds shall accrue to the benefit of the department of finance and administration to be used for travel on state business.

SECTION 13. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 14. This act shall take effect on July 1, 1995, the public welfare requiring it.