



City of Columbus Legislation Report

Office of City Clerk
90 West Broad Street
Columbus OH 43215-9015
columbuscitycouncil.org

File Number: 0084-2016

30-Day

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Type: Ordinance

Status: Passed

Version: 1

***Committee:** Rules & Reference Committee

File Name: Legislative Agent Disclosure

File Created: 12/31/2015

Final Action: 03/30/2016

Auditor Cert #:

Auditor: When assigned an Auditor Certificate Number I , the City Auditor, hereby certify that there is in the treasury, or anticipate to come into the treasury, and not appropriated for any other purpose, the amount of money specified hereon, to pay the within Ordinance.

Contact Name/No.: John Oswalt x5-1701

Floor Action (Clerk's Office Only)

Mayor's Action

Council Action

_____	_____	_____	_____
Mayor	Date	Date Passed/ Adopted	President of Council
_____	_____	_____	_____
Veto	Date		City Clerk

Title: To amend Section 2321.54 of the Columbus City Codes to increase legislative agent disclosure requirements and to enhance penalties for violations of this section.

Sponsors: Zach M. Klein

Attachments:

Approval History

Version	Date	Approver	Action
1	03/10/2016	Edward Roberts	Approved
1	03/10/2016	ATTORNEY APPROVER	Approved
Notes	JTC		
1	03/16/2016	Edward Roberts	Approved
1	03/17/2016	ATTORNEY APPROVER	Approved
Notes	JTC		

History of Legislative File

Ver.	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
1	Columbus City Council	03/21/2016	Read for the First Time				
1	Columbus City Council	03/28/2016	Approved				Pass
1	COUNCIL PRESIDENT	03/28/2016	Signed				
1	MAYOR	03/29/2016	Signed				
1	CITY CLERK	03/30/2016	Attest				

EBOCO: Following review and approval, when required, the Equal Business Opportunity Commission Office certifies compliance with Title 39 as of date listed.

City Attorney: Following review and approval, when required, this ordinance has been reviewed by the City Attorney's Office as to its form and legality only.

EXPLANATION

BACKGROUND

The purpose of this ordinance is to amend Section 2321.54 of the Columbus City Codes which pertains to the registration of legislative agents and the filing of disclosure reports relating to their activity with the City of Columbus.

In 2006, Columbus City Council established a registry for agents who actively advocate before municipal legislative and executive offices. Further, City Code would require that those agents update their registration information as they are retained, or are no longer representing such interests, and that the City Clerk would ensure all record of registration be available for public viewing and use.

The City of Columbus has an opportunity to enhance transparency and accountability for agents who actively advocate before municipal offices, by significantly expanding and enhancing agent registration requirements. These new requirements will mirror the stricter state law definition of who must register with the City Clerk as an agent, including those who advocate before city elected officials and/or municipal offices.

This legislation will also require a new disclosure report for registered agents, increasing the number of annual reports. It will also increase the penalties for violation of these disclosure requirements.

Building on Council's 2006 efforts to provide greater transparency in the legislative process, these additional safeguards further Council's efforts to enhance transparency and accountability in the legislative process by significantly expanding and increasing registration requirements.

TITLE

To amend Section 2321.54 of the Columbus City Codes to increase legislative agent disclosure

requirements and to enhance penalties for violations of this section.

BODY

WHEREAS, Section 2321.54 of the Columbus City Codes establishes a registry for legislative agents (“agents”) who actively advocate before municipal legislative and/or executive offices, as well as requires disclosure reports be filed by said agents; and

WHEREAS, the general laws of the State of Ohio, specifically Ohio Revised Code §101.70, provides more encompassing definitions for legislative lobbying than currently exists in Section 2321.54 of the City Code; and

WHEREAS, this Council has determined that it is necessary to expand the definition of “legislative agent” to be more reflective of the general laws of the state; and

WHEREAS, this ordinance will also require a new disclosure report for registered agents, increasing the number of annual reports; and

WHEREAS, this ordinance will also increase the penalties for violations of Section 2321.54; and

WHEREAS, this ordinance furthers Council’s efforts to enhance transparency and accountability in the legislative process by significantly expanding and increasing registration requirements; now, therefore

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF COLUMBUS:

SECTION 1. That Section 2321.54 of the Columbus City Codes is hereby amended, reading as follows:

2321.54 - Legislative agent registration.

Definitions. As used in this section:

"Actively advocate" means to promote, advocate, or oppose the passage, modification, ~~or~~ defeat, or mayoral approval or veto of any legislation by direct communication with any elected official or appointee of elected official, or any member of an elected official's staff, or the mayor or any director of any department described in the City Charter, or any member of the staff of the ~~M~~ayor or of any director described above. "Actively advocate" does not include the action of any ~~person~~ individual not engaged by an client who has a direct interest in legislation if the person, acting under Section 3 of Article I, Ohio Constitution, assembles together with other persons to consult for their common good, instructs a public officer or employee who is listed in this chapter, or petitions that public officer or employee for the redress of grievances.

"Client" means any ~~person~~ individual, partnership, trust, estate, business trust, association, or corporation; any labor organization or manufacturer association; any department, commission, board, publicly supported college or university, chapter, institution, bureau, or other instrumentality of the state; or any county, township, municipal corporation, school district, or other political subdivision of the state who, directly or indirectly, engages a legislative agent.

"Compensation" means a salary, gift, payment, benefit, subscription, loan, advance, reimbursement, or deposit of money or anything of value; or a contract, promise, or agreement, whether or not legally enforceable, to make compensation.

"Engage" means to make any arrangement, and "engagement" means any arrangement, whereby an individual is ~~hired~~, employed or retained for compensation to act for or on behalf of a client to actively advocate.

"Legislation" means ordinances, resolutions, amendments, nominations, communications and any other matter pending before city council, ~~or the mayoral approval or veto of any legislation acted upon by city council.~~

"Legislative agent" means any individual, except an elected official or a member of the staff of any elected official, who is engaged during at least a portion of five (5) percent of his or her compensated time to actively advocate as one of his or her main purposes. ~~Legislative agent shall not include: (a) Any business owner or president, CEO, executive director, or board member, or any individual holding a substantially similar position advocating on behalf of that individual's business, partnership, association or corporation, or on whose board he or she serves, and only on behalf of that business, partnership, association or corporation, and who is not engaged during at least a portion of his or her time to actively advocate as one of his or her main purposes; (b) Any federal, state, or local government employee, county or municipal or state institution of higher learning employee, as defined by section 3345.011 of the Ohio Revised Code, or public school district employee who is engaged during at least a portion of his or her time to actively advocate as one of his or her main purposes unless that employee is engaged by a labor organization, as defined by section 3517.01(B)(18) of the Ohio Revised Code, and is engaged during at least a portion of his or her time to actively advocate as one of his or her main purposes; (c) Any officer of a labor organization, as described by section 3517.01(B)(18) of the Ohio Revised Code, elected by the general membership of that labor organization; (d) Any private citizen advocating on behalf of himself or herself or a community and who is not engaged during at least a portion of his or her time to actively advocate as one of his or her main purposes; or (e) Any private citizen advocating on behalf of himself or herself and who is engaged during at least a portion of his or her time to actively advocate as one of his or her main purposes.~~

~~"Person" means any individual, partnership, trust, estate, business trust, association, or corporation; any labor organization or manufacturer association; any department, commission, board, publicly supported college or university, chapter, institution, bureau, or other instrumentality of the state; or any county, township, municipal corporation, school district, or other political subdivision of the state.~~

~~) "File" means electronically or manually submitting information fulfilling the requirements of this section to the Office of the city clerk.~~

~~) "Distribution" means the act of making information available either by traditional or electronic mail or by other traditional or electronic means.~~

~~(9) "Publish" means making available, as a book, electronic document, or other traditional means, a document or series of documents, either for sale or for general distribution.~~

Registration Requirements for Legislative Agents.

Each legislative agent, within ten (10) days following an engagement of that legislative agent, shall file with the city clerk a completed initial registration statement, the form of which shall be prescribed by the City Clerk, showing all of the following:

The name, business address, and occupation of the legislative agent;

The name, business address, and industry information of the client on whose behalf the legislative agent is actively advocating, unless otherwise prohibited by law or by the Rules for the Government of the Bar of Ohio, in which case the legislative agent or client shall indicate that disclosure of the information requested is prohibited by law or by the Rules for the Government of the Bar of Ohio. For the purposes of this section, where a trade association or other charitable or fraternal organization that is exempt from federal income taxation under subsection 501(c) of the federal Internal Revenue Code is the client, the statement need not list the names and addresses of each member of the association or organization, so long as the association or organization itself is listed; and, A brief indication of the type of legislation and/or issues to which the engagement relates.

In addition to the initial registration statement(s) required by this division, each legislative agent shall file with the city clerk, not later than the last day of January ~~and July, May, and September~~ of each year, an updated registration statement, the form of which shall be prescribed by the city clerk, that confirms the continuing existence of each engagement described in the initial registration statement(s) and that lists the specific ordinances or resolutions on which the agent actively advocated under the engagement(s) during the period covered by the updated statement.

If a legislative agent is engaged by more than one client, the agent shall file an initial registration statement listing all clients, and separate updated registration statements, as required by this section, for each client engagement.

Each legislative agent must file separately, regardless of collaboration and/or employment with other legislative agents or clients.

A registration fee of forty-five (45) dollars shall be charged when a legislative agent files his or her first initial registration statement and yearly, thereafter, so long as the legislative agent is still engaged by one or more clients to actively advocate. All money collected from this registration fee shall be deposited to the credit of the Lobbyist Registration Fund.

Upon registration pursuant to this division, the legislative agent shall be provided a copy of the registration, either electronically or in printed form, for the legislative agent and/or client's records.

The city clerk shall be responsible for reviewing each registration statement filed under this division and for determining whether the statement contains all of the information required by this division. If the city clerk determines that the registration statement does not contain all of the required information or that a legislative agent has failed to file a registration statement, the city clerk shall notify in writing the ~~person~~ individual who filed the registration statement regarding the deficiency in the statement or the ~~person~~ individual who failed to file the registration statement regarding the failure. Any ~~person~~ individual so notified by the city clerk shall, not later than fifteen days after receiving the notice, file a registration statement or an amended registration statement that does contain all of the information required by this section. If any ~~person~~ individual who receives a notice under this section fails to file a registration statement or such an amended registration statement within this fifteen-day period, the city clerk will send out a second written notification ~~delivered by certified mail to that individual~~ and notify the city attorney of the deficiency in the statement or the failure to file a registration statement. Any ~~person~~ individual so notified by the city clerk shall, not later than fifteen days after receiving the notice, file a registration statement or an amended registration statement that does contain all of the information required by this section. If any ~~person~~ individual who receives a notice under this section fails to file a registration statement or such an amended registration statement within this additional fifteen (15)-day period, the city attorney's office will take appropriate action as authorized under this section. If the city clerk provides notification to the city attorney under this division, the city clerk shall also notify in writing the mayor and each member of the council of the pending investigation.

The city clerk shall, in the manner and form that he or she determines, maintain a current list based upon the registration statements and make it available to the public.

Prohibitions.

~~No legislative agent or client shall knowingly fail to register as required under division (B) of this section.~~

)No ~~person~~ individual shall knowingly fail to register as a legislative agent as defined in this section or fail to file on or before the applicable deadline any statement that the person is required to file under division (B) of this section.

No individual shall knowingly file a false statement that the individual is required to file under division (B) of this section.

Exceptions.

The requirements and prohibitions of this section do not apply to efforts to actively advocate by any of the following:

Appearances before meetings of the committees of city council or the full council, and appearances before public hearings of the committees of the council;

News, editorial, and advertising statements published in bona fide newspapers, journals, or magazines, or broadcast over radio or television;

The gathering and furnishing of information and news by bona fide reporters, correspondents, or news bureaus to news media described hereinabove;

Publications primarily designed for and distributed to members of bona fide associations or charitable or fraternal nonprofit corporations.

The requirements and prohibitions of this section do not apply to the rendering of professional services in drafting ordinances or resolutions, preparing arguments thereon, or in advising clients and rendering opinions as to the construction and the effect of proposed or pending legislation, provided the services are not otherwise connected with actions to actively advocate.

Registration duties of the city clerk

The city clerk shall keep a file of the registration statements required by this section. Those statements are public records and open to public inspection according to law, and the city clerk shall computerize them so that the information contained in them is readily accessible to the general public. The city clerk shall provide copies of the statements to the general public upon request and may charge a reasonable fee to cover the cost of copying and delivering each statement.

The city clerk shall prescribe and make available an appropriate form for filing the information either electronically, or by hard copy, or both. The form shall contain the following notice in boldface type: "**ANY PERSON INDIVIDUAL WHO KNOWINGLY FILES A FALSE STATEMENT IS GUILTY OF FALSIFICATION UNDER SECTION 2321.13 OF THE COLUMBUS CITY CODES, WHICH IS A MISDEMEANOR OF THE FIRST DEGREE.**"

The city clerk shall publish on-line instructions, which are also available in hard copy for a reasonable fee to cover the cost of copying and delivering the instructions, which explain this section in clear and concise language.

~~Annually in the month of August~~ Within thirty (30) days of the filing deadlines listed in division (B)(2) of this section, the city clerk shall compile from registration statements filed, a complete and updated list of active registered legislative agents and their clients and publish that list electronically in the City Bulletin. The city clerk shall provide copies of the list to the general public upon request and may charge a reasonable fee not to exceed the cost of copying and delivering the list. The city clerk shall also ensure that the current list is available online on the website of the city of Columbus.

The city clerk may adopt rules as necessary to implement this section.

The city clerk shall exercise the powers and duties prescribed under this section.

All moneys collected from registration fees prescribed under this section shall be deposited into the city treasury to the credit of the Lobbyist Registration Fund created by this ordinance. Money credited to the fund and any interest and earnings from the fund shall be dedicated to covering the costs of coordinating and enforcing this effort and used solely for conducting the lobbyist registration duties of the city clerk and, as needed for enforcement activities undertaken by the city attorney.

The city clerk shall provide an updated list of registered legislative agents to the members of council and to the mayor at any time upon request.

Authority of the City Attorney. The city attorney may investigate compliance with the filing requirements of this section ~~upon request of the city clerk,~~ in accordance with division (B), or upon

ten complaint filed with the city attorney's office.

~~Penalty. Penalties. Whoever violates the prohibitions contained in division (C) of this section is guilty of a misdemeanor of the fourth degree.~~

(1) Whoever violates the prohibitions contained in division (C)(1) of this section is guilty of a misdemeanor of the third degree.

(2) Whoever violates the prohibitions contained in division (C)(2) of this section is guilty of a misdemeanor of the first degree.

SECTION 2. That the city clerk be and hereby is authorized and directed to forthwith modify the legislative agent registry to accept potential new registrants, as well as additional required disclosure statements.

SECTION 3. That existing Section 2321.54 of the Columbus City Codes is hereby repealed and replaced as provided herein.

SECTION 4. That to allow potential legislative agents, as well as the city clerk, sufficient opportunity to prepare and execute the new requirements, this ordinance shall take effect and be in force from and after six (6) months following its enactment.