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# COLORADO SECRETARY OF STATE LOBBYING GUIDANCE MANUAL

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**Colorado Secretary of State-Elections Division**

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This guidance manual provides information about the registration and reporting requirements of professional lobbyists, state liaisons, and lobbying firms in Colorado. The majority of lobbyist disclosure requirements apply to professional lobbyists. Professional lobbyists are persons or entities who receive compensation for lobbying services. Please read the manual and familiarize yourself with the law. This publication is not intended to be legal advice. Please consult an attorney for legal advice.

# Contents

- Lobbying Defined .....4
- Communicating with a Covered Official .....5
- Aiding in or Influencing Legislative or State Agency Activities .....6
  - Matters pending or proposed for consideration by the General Assembly.....6
  - Rules, standards, or rates of any state agencies with rule-making authority .....8
- Who is Required to Report?.....8
- Exceptions ..... 11
  - Required Testimony ..... 11
  - Expert Testimony ..... 11
  - Attorney-client Communications..... 11
  - Legislative Staff ..... 11
  - Grassroots Lobbying ..... 12
- Persons and Entities Required to Register..... 14
- Step by Step Registration as a Professional Lobbyist ..... 14
- Monthly Disclosure Report ..... 21
  - Minimum dollar threshold for reporting ..... 22
  - Reporting the source of a contribution ..... 22
  - Working in-house for a client ..... 23
  - Reporting on Legislative Activities..... 23
  - Position on bills..... 24
  - Reporting lobbying activities regarding rules, standards, or rates..... 26
- Subcontractor Payments..... 26
- Direct Business Associations ..... 27
- New Client Reporting ..... 29
  - Deadlines to report new clients..... 29
- Annual Cumulative Disclosure Reports..... 34
- State Liaison Monthly Reporting..... 36
- Imposition of Penalties ..... 39
- Waiver or Reduction of Penalties Request ..... 40
- Prohibited Activities & Enforcement..... 43**
  - Prohibited Activities by Professional Lobbyists ..... 43
  - Filing a Complaint..... 44

# Part I

## Lobbying Overview

### Introduction

Colorado law requires professional lobbyists, lobbying firms, and state liaisons to file disclosure reports detailing their lobbying activities. The intent of this guidance manual is to help professional lobbyists and those who engage in the creation of law and policy comply with Colorado rules and regulations to ensure complete and timely disclosure of lobbying activities. Professional lobbyists are persons or entities who are compensated for lobbying services.

Professional lobbyists should familiarize themselves with Article XXIX of the Colorado Constitution, Colorado Revised Statutes Section 24-6-301 through Section 24-6-309, and the Secretary of State's Rules Concerning Lobbyist Regulation. Examples and statutory references are also provided throughout this guidance manual. Additionally, staff in the Elections Division at the Secretary of State's Office are available to assist and answer questions if you need additional information.

### Lobbying Defined

#### **Statutory Definition of Lobbying**

Colorado law defines lobbying as communicating directly, or soliciting others to communicate, with a covered official for the purpose of aiding in or influencing:

- The drafting, introduction, sponsorship, consideration, debate, amendment, passage, defeat, approval, or veto by any covered official on:
  - Any bill, resolution, amendment, nomination, appointment, or report, whether or not in writing, pending or proposed for consideration by either house of the General Assembly or committee thereof, whether or not the General Assembly is in session;
  - Any other matter pending or proposed in writing by any covered official for consideration by either chamber of the General Assembly or a committee thereof, whether or not the General Assembly is in session;
- The preparation of an initial fiscal impact statement;
- The convening of a special session of the General Assembly or the specification of business to be transacted at such special session;
- The drafting, consideration, amendment, adoption, or defeat of any rule, standard, or rate of any state agency having rule-making authority.

Lobbying occurs when a professional lobbyist communicates with a covered official for the purposes of influencing specific public policy in the state. This includes a broad array of communication beyond just communicating with legislators during the Colorado legislative session. Colorado law requires the disclosure of lobbying when:

- The communication (direct or indirect) is with a covered official;
- The communication’s purpose is to aid or influence legislative or state agency activities;
- The communication is made by a professional lobbyist or lobbying firm; and
- An exception does not otherwise apply.

## Communicating with a Covered Official

Under Colorado law, lobbying includes communicating, or soliciting others to communicate, with a covered official for the purpose of aiding in or influencing legislative or state agency activities. A covered official encompasses a wide variety of state officials, not just legislators.

### Who is a covered official?

- The governor
- The lieutenant governor
- A member of the General Assembly (a legislator)
- The Director of Legislative Council and Legislative Council staff
- A member of a rulemaking board
- A member of a rulemaking commission
- A rulemaking official of a state agency which has jurisdiction over the subject matter of a rule, standard, or rate

The communication with the covered official can be direct or indirect and the method of communication can vary. For example, a professional lobbyist can directly communicate a position to a legislator in a number of ways, including but not limited to: an in-person meeting, telephone call, text message, letter, email correspondence, a Facebook message, a tweet, or Snapchat message. **The crucial element is that the communication is made with the intent to influence the covered official regarding a pending or proposed matter.**

Lobbying also includes indirect communications. If a professional lobbyist solicits or asks another person to talk to a covered official in order to influence them on legislation, that is lobbying. This would include asking another professional lobbyist to speak on your behalf, or urging the public to reach out to their legislator to take a position on a bill. Colorado law requires a professional lobbyist to disclose these indirect communications to the Secretary of State’s Office.

## Aiding in or Influencing Legislative or State Agency Activities

Disclosure of lobbying activity is only required if the communication with a covered official is made with the purpose of aiding or influencing a pending or proposed matter, including a variety of legislative or agency related activities.

### **Matters pending or proposed for consideration by the General Assembly**

**Legislation:** In general, a professional lobbyist is lobbying if they communicate and seek to influence a covered official on any matter that is pending or proposed for consideration by either chamber. This includes communications during drafting of the legislation, while it is pending in either chamber of the General Assembly, and while it is pending action by the Governor. Additionally, for the purpose of this manual, the terms “legislation” or “bill” include any matter pending before the Colorado General Assembly including, but not limited to, bills, resolutions, amendments, memorials, nominations, appointments, and reports.

**Drafting activities:** The statutory definition of lobbying explicitly includes communications that aid in or influence the drafting of legislation *before* a bill is introduced and may occur before the legislative session starts. Communicating with a legislator during the drafting of legislation is considered lobbying if you are seeking to influence or shape the legislation and this activity is subject to disclosure. Drafting does not include communications regarding abstract concepts or hypotheticals, but does include activities that are likely to go before a legislative or rulemaking body.

When reporting this type of activity, professional lobbyists may use broad language so as to not disclose confidential discussions or strategy. For example, “Potential energy legislation” or “Education funding ideas” are sufficient subject matter descriptions on a report. If you are not sure whether the activity you are engaging in constitutes lobbying, the guidance from the Secretary of State’s Office is to err on the side of disclosure.

#### **Example**

A professional lobbyist, talks to a Senator about a proposed bill regarding changes to the local building codes which could affect their client. The bill has not yet been introduced but the lobbyist has seen some draft language and heard about the concepts behind the legislation. The professional lobbyist’s client is against the proposed legislation, and the professional lobbyist has been talking to the Senator about how their client has concerns and may oppose. Under Colorado law, this is lobbying and the professional lobbyist should disclose their position, even though the bill has not been introduced. The professional lobbyist can report “RE potential changes to building codes” on their report.

**Introduction, passage or defeat of legislation:** Once a bill is introduced, there are a variety of activities that constitute lobbying. Lobbying includes:

- Asking legislators to support, amend, or oppose the bill;
- Notifying a legislator of a position on a bill;
- Working to delay or fast track the scheduling of a bill in committee;
- Working to identify a sponsor for a bill;
- Proposing or drafting amendments to a bill;
- Preparing and sharing with legislators a factsheet outlining why they should support a bill;
- Preparing talking points for legislators on a bill; or
- Taking a variety of other actions that are designed to aid or influence a legislator’s position or action around pending legislation.

**Note:** There are some exceptions to these rules that are outlined later in this section. Contact the Elections Division at the Secretary of State’s Office if you are unsure if you should disclose the activity you are engaging in.

**Materials prepared to aid in lobbying:** While most activity considered “aiding or influencing” consists of some kind of direct communication with a covered official, it may also include indirect communication with a covered official. This means you may also need to disclose work done to prepare indirect communications. The work may be done by the professional lobbyist or a person acting at the direction of the professional lobbyist to prepare the information. Professional lobbyists should disclose work they pay for and subsequently use.

**Example**

A professional lobbyist creates a factsheet that indicates their client supports SB 201. The factsheet bullets the reason why the client supports the bill and indicates that legislators should vote yes on the bill when it is brought up on the Senate floor. The professional lobbyist gives the factsheet to a Senator during a one-on-one meeting and also passes it out to Senators in the lobby the day the bill is going to be voted on. The professional lobbyist should disclose the time spent creating the factsheet since it is considered lobbying.

**Other matters before the legislature:** There are a variety of other matters that may come before the legislature beyond just legislation. For example, if you communicate with a covered official about a potential nomination or appointment, this is lobbying. Communicating with a covered official about convening a special session or discussing the topics the covered official should consider during a special session also constitutes lobbying.

## Rules, standards, or rates of any state agencies with rule-making authority

Lobbying in Colorado also includes activities that involve communications with a state agency. Aiding in or attempting to influence the drafting, consideration, amendment, adoption, or defeat of any rule, standard, or rate, is also lobbying and is subject to disclosure.

### Example

A professional lobbyist opposes a proposed new rule in a rulemaking being held by the Colorado Department of Labor and Employment. They meet with members of the Department's rulemaking board to state their concerns and opposition to the new rule. The professional lobbyist should disclose this activity.

## Who is Required to Report?

Colorado law requires professional lobbyists, lobbying firms, and state liaisons to file disclosure reports detailing their lobbying activities.

### Professional Lobbyists

Professional lobbyists are persons or entities who are compensated for lobbying services. This includes individuals being paid by clients or individuals who lobby on a subcontract basis. Colorado law requires professional lobbyists to register with the Secretary of State's Office and file disclosure reports and annual cumulative financial disclosure reports. The disclosure reports and the information they must contain are explained in further detail in the "Disclosure" chapter.

Professional lobbyists can work in a variety of settings and their clients vary greatly. A professional lobbyist can be:

- A full-time lobbyist who is a solo practitioner;
- A full-time lobbyist who works for a firm that has a variety of clients and lobbies on a number of bills;
- An attorney for a firm or organization who handles lobbying in addition to litigating; or
- An employee at a non-profit who works on healthcare policy issues and also lobbies.

Determining whether you are a professional lobbyist under Colorado law is sometimes challenging. As a rule of thumb, if you are paid or otherwise compensated to lobby, then you are a professional lobbyist. This is true even if your job includes a variety of other duties not related to lobbying. If you are unsure whether you are a professional lobbyist, please contact the Elections Division of the Secretary of State's Office for further clarification and guidance.



## Lobbying Firms

Colorado law also requires lobbying firms to disclose their activities. A lobbying firm is a person or entity that:

- Employs one or more professional lobbyists to lobby; and
- Lobbies on behalf of a client that is not the person or entity employing the lobbyist.

**Note:** Under this definition, a lobbying firm would include a self-employed professional lobbyist. Lobbying firms must register and file disclosure reports.

### Example

You work for *XYZ Strategies*, a public policy office. Part of your job is to lobby for a client, *RST Lumber*, while employed at *XYZ Strategies*. *XYZ Strategies* pays your salary, and the client, *RST Lumber*, pays *XYZ Strategies* for lobbying activities. You are a professional lobbyist and *XYZ Strategies* is a lobbying firm. Both you and the firm must file the appropriate disclosure reports required for professional lobbyists and lobbying firms.

## Client

The client is the entity or individual who hires a professional lobbyist. (In some states they are referred to as “principals.”) Clients are not required to register or file reports.

**Note:** A professional lobbyist cannot be a client of another professional lobbyist or lobbying firm although a professional lobbyist can subcontract with another professional lobbyist.

## Volunteer Lobbyist

A volunteer lobbyist is an individual who might otherwise be considered a professional lobbyist, but does not receive any payment or compensation for lobbying, other than reimbursement for expenses. Reimbursement for expenses can include meals, travel, lodging, and parking.

Volunteer lobbyists are not required to register with the Colorado Secretary of State’s Office or file disclosure reports. However, volunteer lobbyists should register with the Colorado General Assembly. For more information on this process, visit:

<https://leg.colorado.gov/agencies/senate/volunteer-lobbyist>

### Example

An individual is a member of a nonprofit organization. There is pending legislation that the nonprofit organization supports regarding its charitable activities. The individual can speak to the impact this legislation will have on the nonprofit’s activities. The individual is not paid by the nonprofit but the nonprofit asks them to testify in support of the bill. They are only compensated for their travel and hotel costs. This individual is acting as a volunteer lobbyist and does not need to register and file disclosure reports.

## State Liaisons (Colorado state employees who lobby)

In general, Colorado law exempts state employees from registering as professional lobbyists and from filing disclosure reports. However, Colorado law requires “principal state departments” to designate one person (state liaison) responsible for reporting all lobbying activities conducted by state employees on behalf of each principal department (listed below).

| Principle State Departments (Section 24-1-110, C.R.S.) |                                    |                                   |
|--|------------------------------------|-----------------------------------|
| Department of State                                    | Department of the Treasury         | Department of Law                 |
| Department of Higher Education                         | Department of Education            | Department of Revenue             |
| Department of Public Health and Environment            | Department of Labor and Employment | Department of Regulatory Agencies |
| Department of Agriculture                              | Department of Natural Resources    | Department of Local Affairs       |
| Department of Military and Veterans Affairs            | Department of Personnel            | Department of Corrections         |
| Department of Public Safety                            | Department of Transportation       | Department of Human Services      |
| Department of Health Care Policy and Financing         |                                    |                                   |

In addition to state principal departments, if individuals lobby on behalf of an institution or governing board of higher education, then that institution or governing board of higher education must have a state liaison. See Section 24-6-303.5(5)(1)(a), C.R.S.

## “In-House” Lobbyists

As noted, you may still need to register and report as a professional lobbyist even if lobbying is only one of your job functions. When registering as a professional lobbyist, the organization you work for is your client. If lobbying is only one of your job functions, you need to decide how to report your income. In this case, the guidance from the Secretary of State’s Office is to use an hourly rate or the percentage of your salary attributed to lobbying to estimate your lobbying income.

Upon request, the Secretary of State’s Office may waive the registration fee for a professional lobbyist who is lobbying for a nonprofit organization if the professional lobbyist’s only compensation is from the nonprofit organization. To receive a waiver, the professional lobbyist must submit a written request to the Secretary of State’s Office along with a copy of the nonprofit organization’s most recent IRS form 990, 990EZ, or 990-N showing gross annual revenue of \$50,000 or less.

For detailed instructions showing how to apply for a waiver of the \$40.00 annual registration fee, see the SECRETARY OF STATE Lobbying Forms Webpage and click the link for “Request to waive registration fee.” <https://www.coloradosos.gov/pubs/lobby/formsList.html>

## Exceptions

Even if activity you engage in constitutes lobbying, you may not need to disclose that activity if one of the below exceptions applies.

### Required Testimony

Lobbying does not include communications made by a person in response to a statute, rule, regulation, or order requiring such a communication. If a committee, board, or commission issues a mandatory order or subpoena commanding an individual to appear in front of a committee or rule-making body, or if the individual is a respondent in a proceeding, this is not considered reportable lobbying activity.

### Expert Testimony

Individuals who testify or provide background information to a legislative committee are exempt from registering if they are not professional or volunteer lobbyists. This exemption also includes giving testimony or providing information at public hearings conducted by state agencies. Under this exemption, individuals who fit this description must clearly identify themselves and the interest for whom they are testifying or providing information on behalf of.

**Note:** If an individual advocates for or against a pending matter before a covered official outside of committee, then they would likely need to register as a professional or volunteer lobbyist.

### Attorney-client Communications

If communication occurs between an attorney and a client whose name has been publicly identified and that communication constitutes the practice of law, then the communication might not constitute lobbying.

**Note:** Being an attorney and asserting attorney-client privilege does not exempt you from disclosing all lobbying activities. As an attorney, you are required to disclose information about clients related to lobbying activities to the same extent as a non-attorney. For additional guidance on this exemption, contact the Colorado Secretary of State’s Office.

### Legislative Staff

Colorado law does not consider employees of the legislative branch performing duties as part of their job as engaging in lobbying activity.

## Grassroots Lobbying

This is a narrow exemption. Grassroots lobbying occurs when an employee of an organization contacts members of the organization encouraging them to reach out to covered officials in response to a piece of legislation or rule once a year. If an organization engages in grassroots lobbying, and this only occurs once a year, then the individual who directs the grassroots lobbying activity is exempt from having to register as a professional lobbyist and is exempt from reporting requirements.

### Example

An employee of a company is asked by the company to send an email blast to all of its employees urging them to oppose a bill regarding work safety requirements at tech firms. In addition, the company asks the employee to include contact information for state legislators and to explicitly state in the email that employees reach out to their legislators to express their opposition to this bill. Since the employee only sends out this solicitation once a year, they do not have to register as a professional lobbyist.

### Lobbying Overview Chapter Summary

- Colorado law requires the disclosure of lobbying when:
  - The communication (direct or indirect) is with a covered official;
  - Its purpose is aiding or influencing legislative or state agency activities;
  - The communication is made by a professional lobbyist or lobbying firm; and
  - An exception does not otherwise apply.

## References

| <b>General Provisions</b>              |                                  |
|--|----------------------------------|
| Lobbying Definition                    | Section 24-6-301(3.5)(a), C.R.S. |
| Materials prepared to aid in lobbying  | Section 24-6-301(b), C.R.S.      |
| Definition of Communication            | Section 24-6-301(1.3), C.R.S.    |
| Lobbying and Attorney-Client Privilege | Section 24-6-302(8), C.R.S.      |

| <b>Professional Lobbyists</b>      |                             |
|------------------------------------|-----------------------------|
| Professional Lobbyist Defined      | Section 24-6-301(6), C.R.S. |
| Professional Lobbyist Registration | Section 24-6-303, C.R.S.    |

| <b>Volunteer Lobbyists</b> |                             |
|----------------------------|-----------------------------|
| Volunteer Lobbyist Defined | Section 24-6-301(7), C.R.S. |

| <b>Clients</b>         |                             |
|------------------------|-----------------------------|
| Client Defined         | Section 24-6-301(1), C.R.S. |
| Client Further Defined | Section 24-6-302(9), C.R.S. |

| <b>State Employees</b>                   |                             |
|--|-----------------------------|
| State employees exempt from registration | Section 24-6-303(6), C.R.S. |
| State employees exempt from disclosure   | Section 24-6-302(5), C.R.S. |
| State liaison reporting requirements     | Section 24-6-303.5, C.R.S.  |

| <b>Exceptions</b>      |                                 |
|------------------------|---------------------------------|
| Exceptions to lobbying | Section 24-6-301(c)-(f), C.R.S. |

# Part II

## Registration

### Persons and Entities Required to Register

In Colorado, professional lobbyists, lobby firms, and state liaisons all register with the Secretary of State's Office. Clients, volunteer lobbyists, and state employees are not required to register.

A professional lobbyist must register *before* they engage in any lobbying activities. Failure to do so may result in fines or other penalties. If you have an agreement to lobby on behalf of a client and receive any compensation to do so, then you should register as a professional lobbyist as soon as possible.

Timing of registration:

1. **Preemptive Registration:** If you register as a professional lobbyist in advance of any lobbying activity or client agreements, you must file monthly disclosure reports even if there is zero activity occurring or zero income received in the preceding month. This is explained in further detail in the "Disclosure" chapter.
2. **Register as soon as activity occurs:** If you wait to register as a professional lobbyist until you start lobbying, you must ensure you register at the time you actually engage in lobbying activity. Once registered, you must file monthly disclosure reports.

### Step by Step Registration as a Professional Lobbyist

As a professional lobbyist in Colorado, you must register with the Colorado Secretary of State's Office annually and prior to beginning any lobbying activity in the state. Registration occurs on the Secretary of State's website on the [Lobbyist Program Page](#). The following steps are necessary to register as a professional lobbyist:

1. Request a User ID
2. Determine what type of registrant you are
3. Pay the registration fee and select your initial reporting month
4. Add clients

## Step 1: Request a User ID

The first step is to request a User ID using the online form. The form can be found at <https://www.coloradosos.gov/lobby/RequestUserId.do>. A screenshot of the webpage is below.

The screenshot shows the Colorado Secretary of State website. The header includes the Colorado logo, the text 'Colorado Secretary of State Jena Griswold', and a search bar. The main content area is titled 'Lobbyists'. A red box highlights the 'File reports' section, which contains the question 'Do you have a User ID? Do I need one?' and two bullet points: 'No, request a User ID or get help' and 'Yes, log in to eFile or choose a filing below:'. Below this is a table of filing options:

| Filings            |                       |                              |
|--------------------|-----------------------|------------------------------|
| Registration       | <a href="#">eFile</a> | <a href="#">Instructions</a> |
| Disclosure Report  | <a href="#">eFile</a> | <a href="#">Instructions</a> |
| Cumulative Report  | <a href="#">eFile</a> | <a href="#">Instructions</a> |
| Termination Report | <a href="#">eFile</a> | <a href="#">Instructions</a> |

Other links in the 'File reports' section include 'Forgot password?', 'Not sure when to file? Filing calendars', and 'Need to pay a fine? Log in'. The 'Search by' section lists 'Lobbyist', 'Client', 'Bill number', and 'Manual filings (scanned images)'. The right sidebar contains 'News and important dates' (including Christmas closure, temporary rules, and disclosure reports), 'Directories & data' (updated monthly, including registered lobbyists, clients, and volunteer lobbyists), and 'Resources' (including advisory opinions, general assembly, FAQs, forms, lobbyist data, laws, and volunteer lobbyist application).

## Step 2: Determine Registration Type

### Individual lobbyist that is not employed by a lobbying firm

If you are a professional lobbyist who does not work for a lobbying firm, check this box on the User ID request form. If you are an individual who has one client and you are employed by that client ("in-house" lobbyist), this is also the box appropriate selection. This also includes individuals employed by an organization/entity to do a variety of job functions, and who only lobby on occasion.

### **Example**

A lobbyist works for a non-profit that is not a lobbying firm. They lobby only 30% of the time for their job, which includes other activities such as fundraising and legal work. The lobbyist is not paid to lobby by anyone else.

Under these circumstances, the lobbyist would check the first box “Individual that is not employed by a lobbying firm” on the User ID request form. The lobbyist should NOT fill out the “Firm/Organization Name” text box on the User ID request form.

Since the non-profit is not a lobbying firm, the lobbyist would disclose them later on in the registration process as a Client.

### **Individual lobbyist employed by a lobbying firm**

If you are a professional lobbyist working for a lobbying firm with more than one person, check the second box, “Individual Lobbyist Employed by a Lobbying Firm.” In addition, you should enter the lobbying firm’s name in the “Firm/Organization” field.

### **Single-Member Lobbying Firm**

If you are a professional lobbyist that is the sole employee of your lobbying firm, you should check the box for “Single-Member Lobbying Firm.” Like any other lobbyist who is employed by a firm, you must fill out the “Firm/Organization” field when requesting a User ID.

### **Lobbying Firm with 2 or More Members**

While lobbying firms are not required to register, they must file monthly disclosure reports online, so a lobbying firm must still request a User ID through the system. This requires the individual who is disclosing on behalf of the lobbying firm to check the “Lobbying Firm with 2 or more members” box on the User ID request page. In addition, the lobbying firm must include the name of the firm in the “Firm/Organization” field.

### **Remember**

If you are a person or entity who hires a professional lobbyist to lobby for a person or entity other than yourself, you are a lobbying firm. Under Colorado law, you must file monthly disclosure reports, and you must request a user ID to do so.



## **State Liaisons**

State liaisons in Colorado responsible for reporting the lobbying activities of employees in their department or agency must request a User ID and register with the Secretary of State's Office. State liaisons should check the "State lobbyist working on behalf of a Colorado state agency" box. State liaisons should enter their name but can leave the "Firm/Organization" field blank as they select their department later in the process. State liaisons are also exempt from the \$40 registration fee.

## **Entities reporting contributions and expenditures only**

This registration category is for individuals or entities who are not Professional Lobbyists, Lobbying Firms, or State Liaisons but who make expenditures for the benefit of covered officials in the aggregate of \$200 a year. Professional lobbyists should not make this selection.

## **Step 3: Payment and initial reporting month**

Once you request a User ID, you will receive an email informing you that your request has been accepted. Below is an example of the confirmation email you will receive.

**Today is Friday, October 18, 2019**

*Select the month in which lobby activities began. Reports must be filed by the 15<sup>th</sup> of the following month to avoid being delinquent. Delinquent reports are subject to being fined.*

*Note: You can not select a month in the future.*

**Initial Reporting Month:**  \*

**NOTE:** *You are responsible for filing disclosure reports for all months in which lobbying activity took place. Disclosure reports not filed by 11:59 P.M. (mountain time) of the filing deadline are subject to fines according to section 24-6-302(7), C.R.S.*

The next step is to pay the required \$40.00 registration fee and select your "initial reporting month". If the professional lobbyist's only compensation is from the nonprofit organization, upon request, the Secretary of State's Office may waive the registration fee. To apply for a waiver, the lobbyist must submit a written request along with a copy of the nonprofit organization's most recent IRS form 990, 990EZ, or 990-N showing gross annual revenue of \$50,000 or less. For detailed instructions showing how to apply, go to the Secretary of State's website, Lobbying page, click on Lobbyist Forms, and then click on "Request to waive registration fee."

<https://www.coloradosos.gov/pubs/lobby/formsList.html>

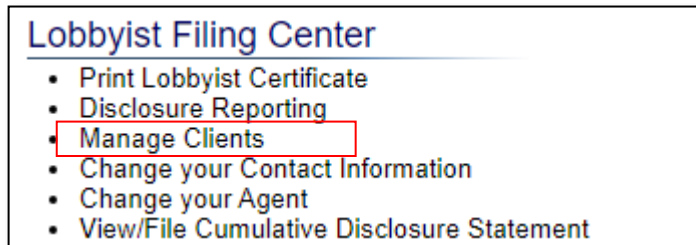
The “initial reporting month” is the month that you began lobbying activity which is typically the month you register as you can only select the current month or a prior month. You cannot select a month in the future as your initial reporting month. You may choose a prior month if you are late in registering your lobbying activity although fines and penalties may apply.

**Note:** If you plan to begin lobbying in the future, but are registering today, then you should select the current month as your initial reporting month. Once registered, you must file monthly disclosure reports beginning with the month you register, but unless you actually engage in lobbying activity, the reports will reflect no activity.

#### **Step 4: Adding clients as a professional lobbyist or lobbying firm**

Professional lobbyists cannot file monthly disclosure reports without clients, so the next step is to enter client information. You can add and remove clients in the system at any time throughout the year.

To add a client, click on the “Manage Clients” link under the Lobbyist Filing Center tab.



From the “Manage Clients” page, select the “add” option and enter the relevant information about your client. Once you complete the process of entering a new client, you can add them to your monthly disclosure report. You are now registered to lobby in the State of Colorado. The actual filing of disclosure reports is the subject of the next few chapters.

#### **Obligation to Update Your Clients**

As soon as you enter into an agreement to lobby for a client, you should add that client to your registration. During the legislative session you must add new clients within **24 hours**. Outside of session you must add new clients within **5 business days**.

### **Registration Chapter Summary**

- Before lobbying in Colorado, professional lobbyists must register with the Secretary of State's Office.
- Professional lobbyists and lobbying firms must request a User ID to register and file required monthly disclosure reports.
  - When requesting a User ID, determine which type of lobbyist you are from the available list
- After obtaining a User ID, professional lobbyists must pay the \$40 registration fee, enter their initial reporting month, and enter their current clients.
- State Liaisons must also register with the Secretary of State's Office and obtain a User ID to file monthly disclosure reports but are exempt from the \$40 registration fee.

## References

| <b>Professional Lobbyist Registration</b> |                          |
|---|--------------------------|
| Registration Requirement                  | Section 24-6-303, C.R.S. |

| <b>Adding a New Client</b> |                             |
|----------------------------|-----------------------------|
| Adding a new client        | Section 24-6-302(6), C.R.S. |

# Part III

## Monthly Disclosure

### Overview

Colorado law requires professional lobbyists to report their lobbying activities monthly, annually, upon a change of position within 72-hours, when hired by a new client, and when lobbying on a new bill for a client during a legislative session. In this section, we will briefly discuss monthly disclosure requirements for lobbying.

### Monthly Disclosure Report

Colorado law requires professional lobbyists and lobbying firms to file monthly disclosure reports and to file them via the Secretary of State's online filing system. Monthly reports are due on the 15<sup>th</sup> day of the following month. For example, the lobbying report for February 2019 is due by March 15, 2019.

Monthly disclosure reports include:

- Income Items (contributions from clients)
- Expense Items
- Subjects and Bills
- Subcontractor payments
- Direct Business Associations

**Note:** If no lobbying activity took place, you must still file the monthly report, but you can check the box indicating no activity for that particular month.

#### Exception

If you are an individual who is the only professional lobbyist working for a lobbying firm, then you may file a **single** report for both the professional lobbyist and the lobbying firm if the disclosure report includes the name of the professional lobbyist and the name of the lobbying firm that solely employs the professional lobbyist.

### Income Items (Contributions from Clients)

In your monthly disclosure report, you should disclose the total amount of contributions you received during the month for lobbying and the source of those contributions. Under Colorado law, "contribution" includes monetary payments, gifts, subscriptions, or loans. It also includes any promise, contract, or agreement to contribute to the lobbyist regardless of when that

contract is actually paid out. See Section 24-6-301(1.5), C.R.S for a complete definition of contribution.

Under income items, you must report the total contributions you received from each client for that month of lobbying. How you choose to report this information can vary. You can report the monthly payment you receive, break-up by month any lump-sum payments received under a lobbying contract, or report the specific payment or portion of your salary you received for lobbying that month. Regardless of how you choose to attribute client payments, the monthly disclosure report should reflect the amount you were paid to lobby for a client during that month.

On the Disclosure Report Summary page, there is an option to check a box if you have no expenses and income to report. If you registered in advance of starting your lobbying activities, you can check this box and then click “file report.” See the box below.

**Check if you have no expenses and no income to report.**

**Important!**

Entering into an agreement to lobby on behalf of a client is a contribution subject to disclosure in the monthly reports even if you have not yet been paid by the client under that agreement

**Minimum dollar threshold for reporting**

Colorado law only requires a professional lobbyist to report the name and address of clients who pay the lobbyist \$100 or more in the form of either monetary or non-monetary contributions during the given reporting month. Determining the actual value of a non-monetary contribution may be difficult. The guidance from the Secretary of State’s Office is to use your best judgment and report anything you estimate to be equal to or greater than \$100.

**Reporting the source of a contribution**

As a professional lobbyist, Colorado law requires you to report who you receive contributions from every month. Depending on your situation, this may be simple or more complex. For example, if you are an in-house lobbyist and receive all of your compensation from your employer, you should report the name of your employer. If you are a professional lobbyist paid directly by a client who has hired you, you should report the name of the client. If you are a

professional lobbyist working for a lobbying firm, then you should disclose the firm as your client and the firm should disclose their clients in their separate monthly report.

### Working in-house for a client

If you are registered as a professional lobbyist and the only interest you lobby on behalf of is your employer, then your employer is your client and you should list your employer as your client on the monthly report. If your entire job is to lobby, then all of your job duties are potentially reportable as income and you should report your entire monthly salary each reporting month.

If your job entails a variety of activities in addition to lobbying, for each month that you engage in lobbying, you should estimate the percentage of your job that involves lobbying activities or the hours you spent on lobbying, and report that as your monthly income.

## Subjects and Bills - Description of Lobbying Activity

In addition to reporting contributions received from a client, lobbyists must also report the specific legislative or state agency activities they lobbied on during the month. The online reporting system lists this as “Subjects and Bills” but it includes bills, resolutions, appointments, rulemakings, and other legislative and state agency activities occurring both during and outside of the legislative session. In your monthly report, you should describe the lobbying activity you engage in and your client’s position on any particular legislation.

### Reporting on Legislative Activities

Colorado law requires professional lobbyists and lobbying firms to disclose their lobbying on legislation, including bills, resolutions, etc. (See definition of lobbying in Part I.) You need to report the type of bill or resolution prefix, bill number, and subject of the legislation. If a bill or resolution has been introduced, this information will auto-populate in the dropdown menu. If the legislation has not been introduced, lobbyists need to enter information about the legislation they are lobbying, by selecting “Other” under prefix and then include a general description of the activity in the “Subject of Legislation” box.

|  |                                  |   |
|--|----------------------------------|---|
| Bill/Resolution Prefix:                        | <input type="text"/>             | * |
| Reporting Year:                                | 2019                             |   |
| Bill/Resolution Number:                        | <input type="text"/>             |   |
| <small>(Optional if OTHER is selected)</small> | <small>(ex: 002 or 1035)</small> |   |
| Subject of Legislation:                        | <input type="text"/>             | * |
| <small>(Short title)</small>                   | <small>(Max 100 chars.)</small>  |   |

### Example

It is December, and a professional lobbyist is communicating with a covered official about a bill that is in the drafting stage. When reporting this activity, the professional lobbyist should select “Other” from the drop-down menu and enter in the “Description” portion of the bill: “Transportation funding bill concepts.”

## Position on bills

Professional lobbyists and lobbying firms must report their client’s position on legislation they are lobbying on. A client may take one of the following positions on a piece of legislation:

- Supporting
- Opposing
- Amending
- Monitoring

### Important!

Colorado law now requires that lobbyists report any change in a client’s position on a bill within 72 hours while the legislature is in session. See part IV of this manual for more information about this new requirement.

### Supporting

You should report “supporting” on your disclosure report when your client has hired you to advocate for the passage of the legislation. While some clients might strongly support a bill and others may only tentatively support it, overall, support means you are advocating for the bill’s passage. This position is made known to the covered officials you are communicating with.

### Opposing

If you are lobbying for the defeat of any legislation, you should report “opposing” on your disclosure report for that bill. This does not refer to the client’s position on an introduced amendment. Instead, this position is the client’s position on the passage of the entirety of the bill. This position is what is made known to the covered officials you are communicating with.

### Amending

You should disclose that your client’s position is “amending” if your client wants a bill to be amended. If you advocate for the bill to be amended at any point during the legislative process (in committee or on the floor) then you should disclose your client’s position as amending. Even



if you are not actively working with sponsors or others to amend a bill, but have made it known to a covered official that your client wants a bill amended, you should disclose that your client's position is "amending". Once the amendment fails or passes, you should record your client's position on the entire bill within 72 hours.

### **Monitoring**

You should disclose this position when you are not advocating on behalf of a client for any change to pending legislation via amendment, or your client does not have any stated position, either positive or negative, related to the legislation. You should only use this position if your client is compensating you to monitor legislation, but has not yet directed you to advocate for or against it. This could be interpreted as a neutral position, but more specifically, it should be used when the client has yet to direct the lobbyist or firm to advocate for a certain position.

### **Date Range on Positions**

In the online reporting system, lobbyists enter bills, clients, positions, and start dates in the "Bills & Subjects" section of their monthly disclosure report. The end date for a current position on a bill should be left as "ongoing" in the end date column. An end date of "ongoing" signifies it is your current position on the bill. The "ongoing" end date will carry over month to month until you change your position and enter an end date to correspond with the position change, or end lobbying on the bill altogether.

**Note:** Colorado law now requires lobbyists to report any position change on a bill within 72-hours.

### **Important!**

Because positions carry forward to the next reporting month, you should not add an end date to your client's position at the end of the month unless your engagement actually ended. This is a change in process from the past; you will no longer add the last day of the month to your client's position when filing your monthly reports if your client's position on the bill has not changed.

## Reporting lobbying activities regarding rules, standards, or rates

When a professional lobbyist or lobbying firm engages in lobbying activities surrounding the drafting, consideration, amendment, adoption, or defeat of any rule, standard, or rate, Colorado law requires the disclosure of this activity. If you know the specific rule, standard, or rate, then you must disclose it on your monthly report. If you do not, a general description of the activity is required.

### Example

A professional lobbyist believes an agency should adopt a rule and contacts rule making officials at the agency regarding the drafting of such a rule.

The lobbyist should disclose this activity. To do so, the lobbyist should enter in the lobbying activity drop down: OTHER and include a general description their work such as: "Drafting of proposed rule concerning utility regulation"

## Expense Items

Professional lobbyists must disclose certain expenses incurred for lobbying. Expense reporting is done under the "Expense Items" tab in the appropriate monthly disclosure report. This does not include expenditures that are incurred by a person in the ordinary course of business and expenses not related to lobbying. Contact the Secretary of State's Office for additional guidance if you are unclear if an expense is subject to disclosure.

## Subcontractor Payments

Professional lobbyists must report payments made to subcontractors. Subcontractors are typically other professional lobbyists hired to help the professional lobbyist. Lobbyists should enter subcontractor payments under the heading "Subcontractor Payments" in the appropriate monthly disclosure report.

If a professional lobbyist hires another lobbyist or firm to represent one of their clients, then under the "Subcontractor Payments" section, they must report:

- The date of the payment;
- The amount paid to the lobbyist or firm; and
- The client the subcontractor represents.

If a professional lobbyist receives a payment to lobby for another professional lobbyist's client as a subcontractor and receives payment from that professional lobbyist, then under "Income Items", the subcontracting professional lobbyist must report:

- The amount received;
- The name of the professional lobbyist who issued payment: and
- The date of the payment.

## Direct Business Associations

If a professional lobbyist receives a direct financial benefit from the passage, or failure, of legislation that is greater than others in their profession, then the professional lobbyist must disclose this benefit by submitting a statement detailing the direct business association.

To submit this statement, go to the monthly disclosure reporting page and click the link for “Direct Business Associations.” Under this section, you can disclose the details of the direct business association by entering information into the text box provided.

### **Monthly Disclosure Reporting Summary**

- Every month, you must report contributions you receive or are contracted to receive to lobby. You may need to estimate or split up lump sum payments to accurately reflect your contributions for a given month.
- Depending on your situation, report contributions as coming from your client or your lobbying firm, whoever actually compensates you to lobby.
- Report your position, client, the date range for which you lobbied on a bill, and the specific bill number for legislation that is introduced.
- Report a general description for rulemaking, standard setting, or rate setting activities.
- Report a general description for legislative activities that occur out of session.

## References

| <b>General Monthly Disclosure</b> |                               |
|-----------------------------------|-------------------------------|
| Disclosure report required        | Section 24-6-302(2.5), C.R.S. |

| <b>Contribution Reporting General Provisions</b> |                                     |
|--|-------------------------------------|
| Definition of contribution                       | Section 24-6-301(1.5), C.R.S.       |
| Reporting of contribution                        | Section 24-6-301(1.9)(a)(I), C.R.S. |
| Definition of client                             | Section 24-6-301(1), C.R.S.         |
| Definition of lobbying                           | Section 24-6-301(3.5)(a), C.R.S.    |
| Definition of lobbying firm                      | Section 24-6-301(3.6), C.R.S.       |

| <b>Disclosing contributions when employer is the client</b>   |                                  |
|---|----------------------------------|
| How to disclose the receipt of contributions when the contribution is used for other purposes as well | Section 24-6-301(1.9)(c), C.R.S. |

| <b>Disclosing contributions when preparing for lobbying activities</b> |                                  |
|--|----------------------------------|
| Preparing for lobbying activities                                      | Section 24-6-301(3.5)(b), C.R.S. |

| <b>Disclosing work outside of session activity</b>                  |                                     |
|---|-------------------------------------|
| Lobbying includes communication on topics outside of session        | Section 24-6-301(3.5)(a)(I), C.R.S. |
| Disclosure Requirements for legislation, standards, rules, or rates | Section 24-6-301(1.9)(a)(X), C.R.S. |

# Part IV

## Additional Disclosures

### Overview

In addition to the monthly disclosure report, professional lobbyists must file several other disclosures throughout the course of a given year. These additional disclosure requirements include:

1. New client disclosure
2. 72-hour reporting
3. Annual disclosure reports
4. Reports from state liaisons

The frequency of these filings varies, as does the information you must include in them.

### New Client Reporting

Throughout the year, a professional lobbyist's clients may change. This can include adding a new client or dropping an existing one. Colorado law requires the reporting of these changes and requires lobbyists to report the change within a certain time period based on whether or not the legislature is in session. The information you will include in this disclosure is also dependent on your client.

#### Deadlines to report new clients

Colorado law requires a professional lobbyist to notify the Secretary of State's Office whenever they enter into an agreement to engage in lobbying with a client that they have not previously disclosed. If this change occurs during the legislative session, lobbyists must disclose this information **within 24 hours**. If this change occurs outside of session, lobbyists must disclose the new client **within 5 business days**.

Outside of the legislative session, the trigger for the 5-day client report is when a lobbyist enters into an agreement to lobby on behalf of a new client. However, during the session, the trigger for the 24-reporting requirement depends on how the agreement to lobby on behalf of a new client was made:

- If the agreement to engage in lobbying is a written agreement, then the professional lobbyist must disclose the new client within 24 hours of the time the agreement was signed.
- If the agreement to engage in lobbying is an oral agreement, then the lobbyist must disclose the new client within 24 hours of whichever of the following occurs *first*:
  - The date of the subsequent written agreement;
  - The commencing of lobbying activities; or
  - The date the lobbyist receives payment from the agreement.

**Example**

In March, a professional lobbyist is approached by a company for help on legislation during the session. The professional lobbyist agrees to advocate for the company, but has yet to put this agreement in writing. A week later, both parties sign off on a written contract. In the week prior, the professional lobbyist was not lobbying for or being paid by the company.

Because this happened during the legislative session the professional lobbyist should disclose the new client within 24 hours of the signing of the written agreement with the company. The professional lobbyist should also include this client on their March disclosure report.

**Disclosing client information**

When adding a new client, you should provide the client’s name and address. Depending on the type of client you are adding, you may need to include additional information.

- If the client is an individual you should also provide a description of the business activity in which the individual is engaged.
- If the client is a business entity you should provide a description of the business in which the client is engaged and the name or names of the entity’s chief executive officer, partners, or other designated contact person, if applicable.
- If the client is an industry, trade organization, group of persons, or a professional association, then a short description of the entity is required.

**Business Entity**

If your client is a business entity, you must list the name of the business entity under the “Organization Name” box. Next, select your client’s business type by selecting one of the drop-down items under the “Business Type” box. Once this is complete, select one of the drop-down items under the “Industry/Trade Type” box in order to provide a more detailed description of

your client. Finally, enter the name or names of your client’s chief executive officer, partners, or other designated contact person, as applicable, by clicking the link that prompts you to add or change the CEO or Partner’s name[s].

**Entity other than Business**

If your client is an industry, trade organization, group of persons, or a professional association, then you must first list the name of the organization under the “Organization Name” box. Next, select your client’s organization type using one of the drop-down items under the “Business Type” Box. Once this is complete, select from the drop-down items under the “Industry/Trade Type” box to provide a more detailed description of your client. The system only requires an industry type description if you select “Other” from the previous drop-down list. If you are still unsure of how to add a new client, contact the Secretary of State’s Office for assistance.

### Edit Client

*If client is an individual*

**Individual Name:**     
(Last) (First) (Middle)

*If client is a business*

**Organization Name:**   
(Organization name)

**Business Type :**

**Industry/Trade Type :**   
*(Enter only if "other" Industry Type is selected)*

**Industry Type Description:**

---

Click [here](#) to add or change the CEO or Partners name(s) (Required if a Business Entity)

**Client contact information:**

Address 1:  \*

Address 2:

City:  \*

State:  \*

ZIP/Postal Code:  \*

Province:

Country:  \*

Phone:  \*

Ext:

Fax:

Email:  \*

Business Web Address:

\* By checking this box, I am signing the above stated client information and statement of terms.

## 72-Hour Reporting

Legislation passed in 2019 and effective January 1, 2020 requires professional lobbyists to report all positions on bills in real time during the legislative session. This means that whenever a professional lobbyist lobbies on a new bill or changes a position on a bill, the professional lobbyist must report this change within 72 hours. The new statutory provision and applicable lobby rules are outlined below.

### **Statutory Requirements for 72-Hour Reporting**

Under Colorado law, Section **24-6-302(6.5), C.R.S.:**

(a) in addition to any other disclosure required by Section 24-6-302, C.R.S., during the period that **the Colorado General Assembly is in regular or special session**, a professional lobbyist shall notify the Secretary of State by means of the electronic filing system created in section 24-6-303 (6.3) **within seventy-two hours** after:

(I) The lobbyist agrees to undertake lobbying in connection with new legislation, standards, rules, or rates for either a new or existing client of the lobbyist; or

(II) The lobbyist takes a new position on a new or existing bill for a new or existing client of the lobbyist.

(b) During the period that the Colorado General Assembly is in regular or special session, where the lobbyist agrees to undertake lobbying in connection with new or existing legislation for either a new or existing client, the disclosure required by subsection (6.5)(a) of this section includes the bill number of the legislation at issue and whether the lobbyist's client is supporting, opposing, amending, or monitoring the legislation at the time the lobbyist agrees to undertake lobbying in connection with the legislation or takes a new position.



## **Lobby Rule 2.8: Additional required disclosure during session**

### 2.8.1 Lobbying disclosure during session for new client

- (a) If a professional lobbyist agrees to lobby for a new client or other professional lobbyist during session, the professional lobbyist must disclose:
  - (1) The identity of the new client or other professional lobbyist in accordance with Rule 2.7.2 within 24 hours; and
  - (2) The legislation, standards, rules, or rates, on which the professional lobbyist is lobbying for that client or other professional lobbyist, in accordance with Rule 2.5.1(c), **within 72 hours.**

### 2.8.2 Lobbying disclosure during session for existing client or other professional lobbyist

- (a) New legislation, standards, rules, or rates.
  - (1) If a professional lobbyist agrees to lobby for an existing client during session in connection with new legislation, standards, rules, or rates, the professional lobbyist must disclose the lobbying activity, in accordance with Rule 2.5.1(c), **within 72 hours.**
  - (2) New legislation includes an engagement to lobby for an existing client on lobbying activities that were not previously disclosed.
- (b) Change of position on legislation, standards, rules, or rates
  - (1) If a professional lobbyist takes a new position on legislation, standards, rules, or rates for an existing client during session, the professional lobbyist must disclose the position change, in accordance with Rule 2.5.1(c), **within 72 hours.**

### 2.8.3 Disclosures made in accordance with this Rule 2.8 are proper when the professional lobbyist uploads the new legislation, change of position, or other lobbying activity to the electronic filing system.

In the online reporting system, lobbyists enter bills, clients, positions, and start dates in the “Bills & Subjects” section of their monthly disclosure report. The end date for a current position on a bill should be left as “ongoing” in the end date column. An end date of “ongoing” signifies it is your current position on the bill. The “ongoing” end date will carry over month to month until you change your position and enter an end date to correspond with the position change, or end lobbying on the bill altogether.

If your client’s position on a bill changes, the lobbyist must add an end date to that position and then add a new position to the bill with a new start date. Colorado law requires this disclosure every time a position changes which may result in multiple position start and end dates on the same day. These position changes will be logged in the system and publicly available for viewing.

If you need to amend the start and end dates for a previously reported position, you must make that change in the previously filed report. For example, if you reported “monitoring” on a bill in your March report when it should have been “supporting,” you must make that change in the March report.

**Note:** The system will reflect any changes in your workspace history.

### Example

A professional lobbyist’s client (NVM Industry) supports a bill being considered by the legislature. The bill is amended in committee on 12/5/2019 and the client’s new position is to monitor the legislation. The bill is subsequently amended again on 12/10/19 and the client now opposes the bill. The professional lobbyist must report each position change within 72 hours of the change. See below:

| Delete Client |                                       | Legislative Position <a href="#">Help with reporting your positions</a><br><small>(during the reporting month)</small>  | Start Date<br><small>(MM/DD)</small><br><small>If the position is ongoing, don't enter an end date.</small> | End Date<br><small>(MM/DD)</small> |
|---------------|---------------------------------------|---|---|------------------------------------|
| 1             | <input type="checkbox"/> NVM Industry | <input checked="" type="radio"/> Supporting <input type="radio"/> Opposing <input type="radio"/> Amending <input type="radio"/> Monitoring <input type="radio"/> None | 12/01/2019  | 12/05/2019                         |
|               |                                       | <input type="radio"/> Supporting <input type="radio"/> Opposing <input type="radio"/> Amending <input checked="" type="radio"/> Monitoring <input type="radio"/> None | 12/05/2019  | 12/10/2019                         |
|               |                                       | <input type="radio"/> Supporting <input checked="" type="radio"/> Opposing <input type="radio"/> Amending <input type="radio"/> Monitoring <input type="radio"/> None | 12/10/2019  | Ongoing                            |

## Annual Cumulative Disclosure Reports

In addition to monthly and 72-hour reporting, professional lobbyists must file an annual cumulative disclosure report. This annual disclosure report includes the name of each of the lobbyist’s clients for the year and the total gross income for lobbying received from each client or other professional lobbyist during the fiscal year (the fiscal year runs from July 1 to June 30<sup>th</sup>). Lobbyists must file this annual report no later than July 15<sup>th</sup>. Failure to file the report by the July 15<sup>th</sup> deadline will result in fines. The Secretary of State’s Office imposes fines for delinquent reports and the fines continue to accrue each day a report remains outstanding.

The cumulative report itself is automatically populated under “View/File Cumulative Disclosure Report” so professional lobbyists only need to review the report for accuracy and completeness. If there is a discrepancy, you can go back and amend the report for the month where the discrepancy occurs and this change should be reflected in the updated annual report. The annual cumulative disclosure report is a summary of all monthly reports from the fiscal year, so you must

have either filed all of the required monthly reports for the fiscal year or filed a termination report for the final month you lobbied. The following screenshot shows the annual disclosure report.

| <b>Cumulative Disclosure Statement<br/>24-6-302(3)(b)</b>   |                                     |  |                          |  |
|---|-------------------------------------|--|--------------------------|--|
| <b>Leahy, Jim</b>   |                                     |  |                          |  |
| <b>Disclosure Entry - Cumulative Disclosure Statement</b>   |                                     |  |                          |  |
| <b>Summary Report - Due By 07/15/2020</b>   |                                     |  |                          |  |
| <b>Date Filed:</b>  |                                     |  |                          |  |
| _____   |                                     |  |                          |  |
| This report calculates gross income received for lobbying and subcontracted lobbying reported in previously filed monthly disclosure statements.      |                                     |  |                          |  |
| If this information is incorrect, go to Disclosure Reporting and the applicable disclosure statement(s) to make the corrections <b>before</b> filing. |                                     |  |                          |  |
| _____   |                                     |  |                          |  |
| Month   | Gross<br>Income                     | Subcontractor<br>Payments                | Net Income               |  |
| October   | 0.00                                | 0.00                                     | 0.00                     |  |
| November  | 0.00                                | 0.00                                     | 0.00                     |  |
| December  | 0.00                                | 0.00                                     | 0.00                     |  |
| January   | 0.00                                | 0.00                                     | 0.00                     |  |
| February  | 0.00                                | 0.00                                     | 0.00                     |  |
| March   | 0.00                                | 0.00                                     | 0.00                     |  |
| April   | 500.00                              | 0.00                                     | 500.00                   |  |
| May   | 0.00                                | 0.00                                     | 0.00                     |  |
| June  | 0.00                                | 0.00                                     | 0.00                     |  |
|   | <b>Cumulative<br/>Gross Income:</b> | <b>Subcontractor<br/>Total Payments:</b> | <b>Total Net Income:</b> |  |
|   | <b>\$500.00</b>                     | <b>\$0.00</b>                            | <b>\$500.00</b>          |  |

## Termination Reports

If you register to lobby and then end your lobbying activities before the end of the lobby registration period (June 1<sup>st</sup> through July 15<sup>th</sup>) you should file a termination report. This can be done when you file a monthly report by clicking a box indicating it is also a termination report.

**Check if this is a termination report.**

If terminated any time during the fiscal year, a cumulative disclosure statement for that portion of the year in which you were registered is due on or before July 15th. It is recommended the statement be filed at the time of termination rather than waiting until the end of the fiscal year.

**Note:** You should only file your monthly disclosure report as a termination report if you will not lobby for the remainder of the current fiscal year.

### Important!

Once you file a monthly report as a termination report, you must still file your annual cumulative report. To avoid late filing penalties, we recommend filing this report once you file the termination report as opposed to waiting until the end of the fiscal year, especially if the end of the fiscal year is several months away.

## State Liaison Monthly Reporting

A state liaison has different reporting requirements than professional lobbyists and lobbying firms. Here are a few differences:

### State Liaisons:

- Liaisons do not report contributions
- Liaisons must report state expenditures, if any
- Liaisons must report employees lobbying for principal department
- Liaisons must report hours spent lobbying
- Do not incur fines for late reporting

Vs.

### Professional lobbyists:

- Professional lobbyists must report contributions
- Professional lobbyists must report expenditures to covered officials
- If an employee of a lobbyist lobbies, then they must register and file their own lobbying reports
- Do not report hours, only contributions received and specifics of lobbying
- Fines accumulate daily (Business days)

### Employees lobbying on behalf of principal department

As a state liaison, you are responsible for all lobbying activities that take place at your principal department. This means that you must report the names of employees that, in addition to yourself, lobby on behalf of the department. State liaisons must report this information monthly to comply with lobbying regulations. If you are unsure whether employees in your department are engaging in lobbying activities, review the definition of lobbying or contact the Secretary of State's Office for additional guidance.

## **Hours spent lobbying**

Each month, state liaisons must also report the number of hours in total that the department spent on lobbying. The Secretary of State's Office encourages state liaisons to develop an internal tracking mechanism for collecting information from any and all department employees engaged in lobbying to accurately capture the total lobbying hours for the department

## **State expenditures**

State liaisons must report any expenditures of public funds from their principle department for lobbying. This includes listing any additional expenses used for lobbying, such as contracting with an outside lobbyist or lobbying firm, on the monthly disclosure report. This does not include the salary of the state liaison or any other department employees engaged in lobbying activities.

## **Termination reports**

State liaisons may terminate their registration at any point in time by indicating that their monthly report also serves as a termination report. If the department continues to engage in lobbying activity, the department must designate a new representative to serve as its liaison who is ultimately responsible for filing lobbying disclosure reports on behalf of the department.

### **Additional Disclosure Reporting Summary**

- Professional lobbyists must report changes in their clients
  - During the session - within 24 hours
  - Outside of session - within 5 business days
- During the legislative session, professional lobbyists must disclose new positions or position changes on bills within 72 hours.
- Professional lobbyists must file annual disclosure reports in addition to their monthly disclosure reports. This report is due no later than July 15 of every year.
- State liaisons report all lobbying activity for their department including the names of other employees lobbying and the hours they spend doing so.

## References

| <b>New Client Disclosure</b>      |                             |
|-----------------------------------|-----------------------------|
| New Client Disclosure requirement | Section 24-6-302(6), C.R.S. |

| <b>Annual Report</b>   |                                |
|------------------------|--------------------------------|
| Annual Report Required | Section 24-6-302(3)(b), C.R.S. |
| Fiscal Year Defined    | Section 24-6-301(2.3), C.R.S.  |

| <b>72-Hour Report</b>         |                                |
|-------------------------------|--------------------------------|
| 72-hour reporting requirement | Section 24-6-302 (6.5), C.R.S. |

| <b>State Liaisons</b>         |                                   |
|-------------------------------|-----------------------------------|
| General Provisions            | Section 24-6-303.5, C.R.S.        |
| Employee reporting in general | Section 24-6-303.5(2), C.R.S.     |
| Expenditure of public funds   | Section 24-6-303.5(2)(II), C.R.S. |

# Part V

## Penalties and Waivers

### Overview

In Colorado, professional lobbyists and lobbying firms are required to file monthly disclosure reports on the 15<sup>th</sup> day of every month and an annual cumulative disclosure report at the end of each state fiscal year (due by July 15<sup>th</sup>). Failure to file timely disclosure reports will result in the imposition of fines. Fines continue to accrue for each day a report remains delinquent.

### Imposition of Penalties

Colorado law requires the Secretary of State’s Office to impose penalties for delinquent monthly and annual disclosure reports. If a required report is not filed by the due date, the registered professional lobbyist will receive an email notifying them of the delinquency. The delinquency will also be noted in the “Lobbyist Summary” page in the filing system. The Secretary of State’s Office imposes penalties of \$20 a day for each business day a report is delinquent up to the first ten business days. After the tenth business day, penalties increase to \$50 a day for each business day the report remains delinquent.

| Example              |  |
|----------------------|--|
| <b>Monday, 7/15:</b> | <b>Filing Due Date</b>                                       |
| Tuesday, 7/16:       | \$20 (First day late)  |
| Wednesday, 7/17:     | \$40   |
| Thursday, 7/18:      | \$60   |
| Friday, 7/19:        | \$80   |
| ...                  |  |
| Friday, 7/26:        | \$180  |
| Monday, 7/29:        | \$200  |
| Tuesday, 7/30:       | \$250 (10 <sup>th</sup> business day, fine increase to \$50) |
| Wednesday, 7/31:     | \$300  |

Professional lobbyists have the option of either paying their fine in full or requesting a reduction of or waiver of the fine. However, professional lobbyists should file the delinquent report asap to stop the accrual of additional fines.

## Payment of Penalties

To pay fines, professional lobbyists can click on the delinquency notification text in their workspace within the filing system and the system will redirect them to a payment portal.

### **Important**

You must file your delinquent disclosure report – even if you have paid your fine – in order for the fines to stop. Fines will continue to accrue as long as the report remains delinquent and unfiled. You should file your delinquent report(s) as soon as possible to stop fines from accruing.

## Waiver or Reduction of Penalties Request

Colorado law also allows the Secretary of State’s Office to waive or reduce delinquent filing penalties for bona fide personal emergencies. A bona fide personal emergency includes:

- A medical emergency involving the individual responsible for filing the required disclosure report or the individual’s family; or
- A nonmedical emergency that made the timely filing of a disclosure report an impracticability.

In addition, the Secretary of State’s Office may consider all appropriate facts and circumstances when granting or rejecting a waiver request or reducing an imposed penalty. The Secretary of State’s Office must receive all waiver requests within 30 days of the imposition of the penalty, and the Secretary of State’s Office will not consider waiver requests for penalties that have already been paid.

Anyone seeking a waiver of a delinquent lobbyist filing penalty must do so in writing by filling out a waiver request form. The “Request to waive a fine” form is found by clicking the “Forms List” tab under the “Resources” heading. For more details visit:

<https://www.coloradosos.gov/pubs/lobby/formsList.html>

Once a waiver decision has been made, you will receive an email or a letter from the Secretary of State’s Office. If the lobbyist seeking the waiver disagrees with the determination on the waiver request, the professional lobbyist may submit a written request for reconsideration of the waiver decision and should include any additional information that may be relevant to the fine



in question. When reducing penalties, the Secretary of State's Office rounds fine amounts to the nearest, highest \$20.

#### **Penalties and Waivers Summary**

- Failure to timely file monthly or annual disclosure reports results in the automatic imposition of penalties. These penalties are:
  - \$20 a day for the first ten business days late
  - \$50 a day for each business day late thereafter
- Professional lobbyists may request a waiver of any fine imposed by the Secretary of State's Office.

## References

| <b>Penalties</b>      |                             |
|-----------------------|-----------------------------|
| Late Filing Penalties | Section 24-6-302(7), C.R.S. |

| <b>Waivers</b>  |                             |
|---|-----------------------------|
| Waiver or reduction of penalty for bona fide personal emergency | Section 24-6-302(7), C.R.S. |
| Waiver Process  | Lobbying Rule 5             |

## Part VI

### Prohibited Activities & Enforcement

#### Prohibited Activities by Professional Lobbyists

In addition to requiring professional lobbyists to file disclosure reports, Colorado law also prohibits professional lobbyists from engaging in certain activities. Those prohibitions and the actions that might be taken as a result are outlined in this section.

#### **Lobbying while unregistered or while privileges are revoked**

If you are a professional lobbyist or lobbying firm, you need to register with the Secretary of State's Office before engaging in any lobbying. If you fail to register as a professional lobbyist and engage in lobbying activities, you are in violation of Colorado law and could face administrative or criminal penalties.

If you have any questions regarding your status as a professional lobbyist, refer to Section I of this manual or contact the Secretary of State's Office for guidance.

Colorado law also requires the Secretary of State's Office to revoke the registration of any professional lobbyist whose lobbying privileges have been suspended by the Colorado General Assembly. If you continue to lobby as a professional lobbyist while your privileges have been suspended by the General Assembly, you may face administrative or criminal penalties.

#### **Gift Ban**

The Colorado Constitution prohibits a professional lobbyist from gifting something of value, including a beverage, meal, or other consumable good to:

- A public officer
- Member of the General Assembly
- A local government official
- A government employee
- A member of any of the above's families.

This prohibition does not apply to contributions to a candidate's campaign. Violating this section of the Constitution could result in an ethics complaint being filed with the Colorado Independent Ethics Commission (IEC). For more information about this prohibition, visit the Colorado Independent Ethics Commission website: [www.colorado.gov/iec](http://www.colorado.gov/iec).

## Other prohibited practices

Section 24-6-308(1), C.R.S. prohibits professional lobbyists from engaging in numerous practices. Specifically, the law prohibits:

- Giving something of value to a public official in return for a vote on legislation or rules;
- Lying to a covered official on any material fact that the covered official has within their scope of authority;
- Concealing from a covered official the identity of the person or entity that the lobbyist is advocating for;
- Using a false name or the name of a real person without their consent when speaking to a covered official;
- Representing an interest that is averse to their own client without their client's informed consent;
- Paying a covered official more money for property or services than what would be paid by a person who is not a lobbyist;
- Making a loan to a covered official which would make them personally obligated to the lobbyist;
- Threatening a covered official with political reprisal to influence that official's vote;
- Influencing a covered official by communicating with the official's employer;
- Influencing the introduction of legislation or a rule so that the lobbyist will later be hired to lobby on the matter;
- Being compensated as a lobbyist while working as a state officer or employee of a state central committee of a political party;
- Making campaign contributions in excess of that allowed by law or soliciting campaign contributions when prohibited by campaign finance law;
- Paying someone to lobby when that person has not registered as a lobbyist; or
- Engaging in any other practice that discredits the practice of lobbying or the General Assembly.

## Filing a Complaint

Any person who believes that a professional lobbyist or lobbying firm violated Colorado lobbyist regulations may file a complaint with the Secretary of State's Office.

To file a complaint with the Secretary of State's Office, you must submit the complaint in writing using the approved form. The form can be found on the Secretary of State's lobbying program page on the "Forms List" tab under the "Resources" heading. Once on the "Lobbyist Forms" page, select the "Complaint Form" from the list of available forms. Please fill out the form in its entirety and with as much detail as possible.

See <https://www.coloradosos.gov/pubs/lobby/formsList.html> for more information.

The Secretary of State's Office has the legal authority to act upon any valid complaint that is submitted to the office. The Secretary of State's Office may impose fines, suspend, revoke or bar a person or entity from registration, refer the matter to the General Assembly, provide notice to the General Assembly when a substantial violation has occurred, apply to the district court for the issuance of an order in accordance with Section 24-6-309(2), C.R.S., or determine another remedy in accordance with Section 24-6-301, C.R.S.

The complaint process comes with a variety of deadlines and required responses from both the complainant and respondent. For information about the complaint process, review Lobbyist Rule 4.

#### **Prohibited Activities and Enforcement Summary**

- Colorado law prohibits professional lobbyists from lobbying without registering with the Secretary of State's Office or while their registration has been revoked.
- Colorado law prohibits professional lobbyists from engaging in certain activities as specified in Section 24-6-308(1), C.R.S.
- Anyone who believes that a professional lobbyist has violated law or rule may file a complaint with the Secretary of State's Office.

## References

| <b>Prohibited Activities</b>                 |   |
|--|---|
| Lobbying before Registration                 | Section 24-6-303(1), C.R.S.             |
| Certificate of registration required         | Section 24-6-303(4), C.R.S.             |
| Fines for failure to file disclosure reports | Section 24-6-302(7), C.R.S.             |
| Revocation of certificate of registration    | Section 24-6-305(1)(e), C.R.S.          |
| Lobbyist gift prohibition                    | Colorado Const. Art. XXIX, Section 3(4) |
| Prohibited Practices                         | Section 24-6-308(1), C.R.S.             |

| <b>Complaint Process</b>  |                                |
|---|--------------------------------|
| Any person may file a complaint   | Section 24-6-308(2), C.R.S.    |
| Secretary of State complaint process  | Lobbyist Rule 4.1              |
| Authority in general  | Section 24-6-305, C.R.S.       |
| Secretary of State may act upon complaint filed under 24-6-308(1)                                   | Section 24-6-308(2), C.R.S.    |
| Secretary of State may revoke, suspend, or bar registration   | Section 24-6-303(2)(a), C.R.S. |
| Secretary of State may adopt rules to enforce lobbying laws   | Section 24-6-302(2)(b), C.R.S. |
| Secretary of State may initiate a complaint or on its own motion, investigate a potential violation | Section 24-6-302(2)(c), C.R.S. |
| Secretary of State may apply to district court for order  | Section 24-6-302(2)(d), C.R.S. |