EXECUTIVE

BRANCH

LOBBYING

EXECUTIVE BRANCH LOBBYING

BIOGRAPHICAL INFORMATION:

Jeff Gill is the Executive Director of Executive Branch Lobbying at the Indiana Department of Administration, in charge of overseeing and coordinating all aspects of executive branch lobbying on behalf of the Department of Administration (DOA). Jeff started this position on December 27, 2005. The Executive Branch Lobbying rule became effective January 1, 2006.

Prior to that, Jeff was the Deputy Inspector General for the newly created Indiana Office of Inspector General, from April 2005 until his appointment to the Department of Administration. From 1991 to April 2005, he was a Deputy Prosecuting Attorney for the Marion County Prosecutor's Office.

Jeff graduated from Indiana University School of Law – Indianapolis in 1990 and was admitted to the bar in October of that year. He earned by Bachelor of Science degree from Ball State University in 1987. Jeff is a native Hoosier and grew up in Columbus, Indiana, and has been living in Indianapolis since 1987. He and his wife, Toby, and his two daughters, Natalie (6) and Alana (3) currently reside in Pike Township.

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PLEASE VISIT THE EXECUTIVE BRANCH LOBBYING WEBSITE

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ARTICLE 6. EXECUTIVE BRANCH LOBBYISTS

Rule 1. Definitions

25 IAC 6-1-1 Definitions

Authority: IC 4-13-1-4.2

Affected: IC 4-2-6-1; IC 4-2-6-11.5; IC 4-21.5-2-4; IC 4-21.5-2-6; IC 4-22-2-3; IC 5-14-1.5; IC 5-16; IC 5-22; IC 8-23; IC 20-12-0.5-1; IC 36-1-2-13; Article 1, Section 31 of the Constitution of the State of Indiana

Sec. 1. The following definitions apply throughout this article:

(1) "Agency" has the meaning set forth in IC 4-2-6-1.

(2) "Communication" means the exchange of any thoughts, messages, or information by:

(A) contact in person;

(B) telephone;

(C) letter;

(D) telegraph;

(E) facsimile;

(F) electronic mail;

(G) text messaging; or

(H) any other form of electronic transmission of information.

(3) "Department" means the Indiana department of administration.

(4) "Employer" means the person that principally employs the executive branch lobbyist. The term does not include a person that only retains or contracts with an executive branch lobbyist as an independent contractor and does not directly employ that executive branch lobbyist.

(5) "Engage" or "engagement" means any arrangement whereby a person receives financial consideration, in the form of salary, retainer, compensation, or other fee, for or on behalf of any employer or real party in interest to:

(A) influence an executive branch action; or

(B) conduct any executive branch lobbying activity.

(6) "Executive branch action" means a decision of an agency regarding either of the following:

(A) The expenditure of state funds with respect to the award of:

(i) a contract;

(ii) a lease; or

(iii) any other financial arrangement;

under which such funds are distributed or allocated.

(B) The:

(i) proposal;

(ii) drafting;

(iii) development;

(iv) consideration;

(v) promulgation;

(vi) amendment;

(vii) repeal; or

(viii) rejection;

by any agency of a rule as defined by IC 4-22-2-3(b).

(7) "Executive branch lobbying activity" means action or communication made to delay, oppose, promote, or otherwise influence the outcome of an executive branch action. The term does not include any of the following:

(A) The application or negotiation of an award for any state or federal grant.

(B) The resolution of any outstanding tax matter, including:

(i) audits;

(ii) administrative appeals;

(iii) claims for refund; or

(iv) collection activity;

with the department of state revenue or the department of local government finance.

(C) Communication regarding the award of incentives related to an economic development project negotiated by the Indiana Economic Development Corporation.

(D) Paid advertising communications that are disseminated to the public by any of the following:

(i) Radio.

(ii) Television.

(iii) A newspaper or periodical of general circulation.

(E) Any communications, including testimony submitted during public hearing or submitted in writing, at a meeting conducted pursuant to IC 5-14-1.5.

(F) A response to a request for proposal, a bid, a request for quote, or other solicitation made by an agency in conformance with applicable public works or procurement statutes or rules promulgated thereunder.

(G) Other public or private testimony or communications solicited by an agency. The agency soliciting testimony or communications must keep written documentation for a period of four (4) years detailing with particularity the public policy purpose for extending each such invitation.

(H) As provided by IC 4-2-6-11.5, any action or communication made as a member of a board, commission, committee, council, taskforce, workgroup or other advisory body of the executive department that is authorized only to make nonbinding recommendations.

(8) "Executive branch lobbyist" means any individual who is employed and receives payment, or who contracts for financial consideration, exceeding one thousand dollars ($1,000) in any registration year, for the purpose of engaging in executive branch lobbying activity. The term does not include any of the following:

(A) An elected or appointed officer, employee, or special state appointee of a federal or state agency, the judicial department of state government, the legislative department of state government, a state educational institution (as defined in IC 20-12-0.5-1), or a political subdivision (as defined in IC 36-1-2-13) who attempts to influence an executive branch action that is within the scope of the individual's employment or official duties.

(B) An attorney or any other individual who represents a client in any proceeding conducted under IC 4-21.5, in a comparable proceeding conducted by an agency exempted by IC 4-21.5-2-4, or in a proceeding described in IC 4-21.5-2-6.

(C) A person who represents a religious organization for the purpose of protecting the organization's constitutional rights.

(D) Any newspaper or other periodical of general circulation, book publisher, news wire service, or radio or television station (including any individual who owns, publishes, or is employed by any such newspaper or periodical or radio or television station) that in the ordinary course of business publishes news items, editorials, or other comments or paid advertisement that directly or indirectly urge executive branch action if such newspaper, periodical, book publisher, radio or television station, or individual engages in no additional activities in connection with executive branch actions.

(E) A person whose communication with an agency is for the sole purpose of gathering information relating to a bid, procurement, or public work that is produced in a public record done under and in full compliance with:

(i) IC 5-16 (state public works);

(ii) IC 5-22 (public procurement); or

(iii) IC 8-23 (Indiana department of transportation highway contracts).

(F) An individual acting:

(i) on his or her own behalf; or

(ii) under Article 1, Section 31 of the Constitution of the State of Indiana;

who assembles together with other individuals for the common good or petitions an agency for redress of grievances.

(9) "Financial arrangement" means the purchase or acquisition of any:

(A) property;

(B) interest in property;

(C) service; or

(D) other asset;

of an agency valued in excess of ten thousand dollars ($10,000).

(10) "Person" means any:

(A) individual;

(B) proprietorship;

(C) partnership;
(D) unincorporated association;
(E) trust;
(F) business trust;
(G) group;
(H) limited liability company; or
(I) corporation;
whether or not operated for profit.
(11) "Real party in interest" means the person on whose behalf the executive branch lobbyist is acting, if that person is not the employer.
(Indiana Department of Administration; 25 IAC 6-1-1; filed Dec 2, 2005, 2:00 p.m.: 29 IR 1202)

Rule 2. Registration Requirements

25 IAC 6-2-1 Initial registration statement
Authority: IC 4-13-1-4.2
Affected: IC 4-2-6

Sec. 1. Within fifteen (15) business days of making any contact with an agency regarding an executive branch action, an executive branch lobbyist shall file with the department a signed initial registration statement on a form approved by the commissioner, which shall include the following information:
(1) The name, business address, telephone number, electronic mail address, and occupation of the executive branch lobbyist.
(2) The name, business address, telephone number, and electronic mail address of the:
(A) executive branch lobbyist's employer; and
(B) any real party in interest on whose behalf the executive branch lobbyist is acting, if it is different from the employer.
(3) A brief description of the subject matter to which the engagement or engagements relate.
(4) The identity of the agency or agencies to which the engagement or engagements relate.
(5) A verified statement certifying that in the course of engaging in any executive branch lobbying activity, the executive branch lobbyist has read and will comply with the following:
(A) The state statutes governing ethics and conflicts of interest set forth in IC 4-2-6 and rules promulgated thereunder; and
(B) The state statutes governing the office of the inspector general and rules promulgated thereunder.
(Indiana Department of Administration; 25 IAC 6-2-1; filed Dec 2, 2005, 2:00 p.m.: 29 IR 1203)

25 IAC 6-2-2 Annual reports
Authority: IC 4-13-1-4.2
Affected: IC 4-2-6; IC 4-2-7

Sec. 2. (a) In addition to filing an initial registration statement under section 1 of this rule, starting in 2007, an executive branch lobbyist shall file with the department not later than January 15, a signed annual report on a form approved by the commissioner, which shall include the following information:
(1) The name, business address, telephone number, electronic mail address, and occupation of the executive branch lobbyist.
(2) The name, business address, telephone number, and electronic mail address of the executive branch lobbyist's principal employer.
(3) The name, business address, and electronic mail address of each real party in interest represented by the executive branch lobbyist that has a continuing engagement described in the initial registration statement filed by the executive branch lobbyist.
(4) The total amount of payments received for each engagement during the past year.
(5) A brief description of the subject matter for the executive branch lobbying activities in which the executive branch lobbyist was engaged during the past year.
(6) The identity of the agency or agencies to which the executive branch lobbying activities during the past year were directed.
(b) With each annual report, an executive branch lobbyist must file a verified statement certifying that in the course of engaging

in any executive branch lobbying activity, the executive branch lobbyist has read and complied with the following:

(1) The state statutes governing ethics and conflicts of interest set forth in IC 4-2-6 and rules promulgated thereunder; and

(2) The state statutes governing the office of the inspector general as set forth in IC 4-2-7 and rules promulgated thereunder. *(Indiana Department of Administration; 25 IAC 6-2-2; filed Dec 2, 2005, 2:00 p.m.: 29 IR 1203)*

25 IAC 6-2-3 Amendments; changes in information; notice of termination

Authority: IC 4-13-1-4.2
Affected: IC 4-13-1-4.2

Sec. 3. (a) If a material change occurs in any of the information contained in a registration statement, an appropriate amendment shall be filed with the department within fifteen (15) days after the change.

(b) Each registered executive branch lobbyist shall file a notice of termination with the department within fifteen (15) days after the end of the engagement; however, this does not relieve the executive branch lobbyist of the reporting requirements of section 2 of this rule. *(Indiana Department of Administration; 25 IAC 6-2-3; filed Dec 2, 2005, 2:00 p.m.: 29 IR 1204)*

Rule 3. Duties of the Commissioner

25 IAC 6-3-1 Duties of the commissioner

Authority: IC 4-13-1-4.2
Affected: IC 5-14-3

Sec. 1. (a) The commissioner shall:

(1) prescribe forms for the:

(A) initial registration statements;
(B) annual reports;
(C) amendments;
(D) termination reports; and
(E) other documents;

required to be filed under this article; and

(2) make the forms available to persons required to file those forms.

(b) In cooperation with the inspector general, the commissioner shall:

(1) adopt a form for the statement to be filed under 25 IAC 6-2-2(b); and

(2) include such form in materials made available to persons required to file a registration statement.

(c) The commissioner shall:

(1) prepare and publish instructions setting forth recommended, uniform methods of reporting for use by persons required to file statements and reports under this article;

(2) make such instructions available on the department's Web site; and

(3) implement a process for answering any questions and providing any necessary guidance regarding the application of the instructions to these rules.

(d) The commissioner shall be responsible for notifying executive branch lobbyists of deficiencies, inadequacies, and delinquencies in registration statements, reports, and other documents filed or to be filed with the department pursuant to this article.

(e) The commissioner shall compile and maintain an index of all reports and statements filed with the department under this article to facilitate public access to these reports and statements.

(f) The commissioner may audit the accuracy of registration statements or other documents filed under this article by requiring the executive branch lobbyist to submit verified statements and other supporting documentation. Disclosure of such documents shall be subject to IC 5-14-3 and the exceptions and exemptions contained therein.

(g) The commissioner shall notify an executive branch lobbyist of any violations or errors discovered during an audit. The executive branch lobbyist shall within thirty (30) days from receipt of the notification file an amended statement meeting all requirements set forth in this article. If no amended statement is filed within thirty (30) days of receipt of the notification, or if an amended statement does not adequately address the deficiencies discovered during the audit, the commissioner may:

(1) refer the file to the office of the inspector general; and

(2) deem the executive branch lobbyist unregistered until an appropriate amendment is filed.

(h) The department shall preserve statements and reports filed under this article for a period of four (4) years from the date of receipt. *(Indiana Department of Administration; 25 IAC 6-3-1; filed Dec 2, 2005, 2:00 p.m.: 29 IR 1204)*

Rule 4. Prohibitions

25 IAC 6-4-1 Persons barred from executive branch lobbying

Authority: IC 4-13-1-4.2
Affected: IC 4-13-1-4.2

Sec. 1. The following persons may not be registered as an executive branch lobbyist and are prohibited from engaging in executive agency lobbying under this article:

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

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

(3) Any person convicted of a felony who:

(A) is in prison;

(B) is on probation; or

(C) has been in prison or on probation within the past twelve (12) months.

(4) Any person:

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

(B) who has not filed an amended statement or report within thirty (30) days after having been notified to do so by the department.

(Indiana Department of Administration; 25 IAC 6-4-1; filed Dec 2, 2005, 2:00 p.m.: 29 IR 1205)

Rule 5. Enforcement

25 IAC 6-5-1 Enforcement

Authority: IC 4-13-1-4.2
Affected: IC 4-13-1-4.2

Sec. 1. (a) The commissioner shall take all steps allowed by applicable law to enforce this article.

(b) The office of the inspector general shall receive complaints concerning unlawful executive branch lobbying activity, violations of the executive branch lobbying rules, or violations of state ethics rules committed by executive branch lobbyists.

(c) Complaints alleging unlawful executive branch lobbying activity, violations of the executive branch lobbying rules, or violations of state ethics rules may be filed with the office of the inspector general by:

(1) the department;

(2) any appointing authority of an agency; or

(3) any person.

(Indiana Department of Administration; 25 IAC 6-5-1; filed Dec 2, 2005, 2:00 p.m.: 29 IR 1205)

Rule 6. Severability

25 IAC 6-6-1 Severability

Authority: IC 4-13-1-4.2
Affected: IC 4-13-1-4.2

Sec. 1. If any provision of this article as now or later amended, or its application to any person or circumstance, is held invalid, the invalidity shall not affect other provisions that can be given effect without the invalid provision or application. *(Indiana Department of Administration; 25 IAC 6-6-1; filed Dec 2, 2005, 2:00 p.m.: 29 IR 1205)*

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