

FIRST REGULAR SESSION

# HOUSE BILL NO. 445

100TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE DOGAN.

0895H.011

DANA RADEMAN MILLER, Chief Clerk

## AN ACT

To repeal sections 105.470 and 105.473, RSMo, and to enact in lieu thereof two new sections relating to banning certain lobbyist gifts.

*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Sections 105.470 and 105.473, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 105.470 and 105.473, to read as follows:

105.470. As used in section 105.473, unless the context requires otherwise, the following words and terms mean:

(1) "Elected local government official lobbyist", any natural person ~~[employed specifically for the purpose of attempting]~~ **who, as a part of his or her regular employment duties, attempts** to influence any action by:

(a) A local government official elected in a county, city, town, or village ~~[with an annual operating budget of over ten million dollars]~~ ;

(b) **A superintendent or school board member of a school district;** or

(c) **A member of the governing body of a charter school;**

(2) "Executive lobbyist", any natural person who acts for the purpose of attempting to influence any action by the executive branch of government or by any elected or appointed official, employee, department, division, agency or board or commission thereof and in connection with such activity, meets the requirements of any one or more of the following:

(a) Is acting in the ordinary course of employment on behalf of or for the benefit of such person's employer; or

(b) Is engaged for pay or for any valuable consideration for the purpose of performing such activity; or

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

18 (c) Is designated to act as a lobbyist by any person, business entity, governmental entity,  
19 religious organization, nonprofit corporation, association or other entity; or

20 (d) Makes total expenditures of fifty dollars or more during the twelve-month period  
21 beginning January first and ending December thirty-first for the benefit of one or more public  
22 officials or one or more employees of the executive branch of state government in connection  
23 with such activity.

24

25 An "executive lobbyist" shall not include a member of the general assembly, an elected state  
26 official, or any other person solely due to such person's participation in any of the following  
27 activities:

28 a. Appearing or inquiring in regard to a complaint, citation, summons, adversary  
29 proceeding, or contested case before a state board, commission, department, division or agency  
30 of the executive branch of government or any elected or appointed officer or employee thereof;

31 b. Preparing, filing or inquiring, or responding to any audit, regarding any tax return, any  
32 public document, permit or contract, any application for any permit or license or certificate, or  
33 any document required or requested to be filed with the state or a political subdivision;

34 c. Selling of goods or services to be paid for by public funds, provided that such person  
35 is attempting to influence only the person authorized to authorize or enter into a contract to  
36 purchase the goods or services being offered for sale;

37 d. Participating in public hearings or public proceedings on rules, grants, or other  
38 matters;

39 e. Responding to any request for information made by any public official or employee  
40 of the executive branch of government;

41 f. Preparing or publication of an editorial, a newsletter, newspaper, magazine, radio or  
42 television broadcast, or similar news medium, whether print or electronic;

43 g. Acting within the scope of employment by the general assembly, or acting within the  
44 scope of employment by the executive branch of government when acting with respect to the  
45 department, division, board, commission, agency or elected state officer by which such person  
46 is employed, or with respect to any duty or authority imposed by law to perform any action in  
47 conjunction with any other public official or state employee; or

48 h. Testifying as a witness before a state board, commission or agency of the executive  
49 branch;

50 (3) "Expenditure", any payment made or charge, expense, cost, debt or bill incurred; any  
51 gift, honorarium or item of value bestowed including any food or beverage; any price, charge or  
52 fee which is waived, forgiven, reduced or indefinitely delayed; any loan or debt which is  
53 cancelled, reduced or otherwise forgiven; the transfer of any item with a reasonably discernible

54 cost or fair market value from one person to another or provision of any service or granting of  
55 any opportunity for which a charge is customarily made, without charge or for a reduced charge;  
56 except that the term "expenditure" shall not include the following:

57 (a) Any item, service or thing of value transferred to any person within the third degree  
58 of consanguinity of the transferor which is unrelated to any activity of the transferor as a  
59 lobbyist;

60 (b) Informational material such as books, reports, pamphlets, calendars or periodicals  
61 informing a public official regarding such person's official duties, or souvenirs or mementos  
62 valued at less than ten dollars;

63 (c) Contributions to the public official's campaign committee or candidate committee  
64 which are reported pursuant to the provisions of chapter 130;

65 (d) Any loan made or other credit accommodations granted or other payments made by  
66 any person or entity which extends credit or makes loan accommodations or such payments in  
67 the regular ordinary scope and course of business, provided that such are extended, made or  
68 granted in the ordinary course of such person's or entity's business to persons who are not public  
69 officials;

70 (e) Any item, service or thing of de minimis value offered to the general public, whether  
71 or not the recipient is a public official or a staff member, employee, spouse or dependent child  
72 of a public official, and only if the grant of the item, service or thing of de minimis value is not  
73 motivated in any way by the recipient's status as a public official or staff member, employee,  
74 spouse or dependent child of a public official;

75 (f) The transfer of any item, provision of any service or granting of any opportunity with  
76 a reasonably discernible cost or fair market value when such item, service or opportunity is  
77 necessary for a public official or employee to perform his or her duty in his or her official  
78 capacity, including but not limited to entrance fees to any sporting event, museum, or other  
79 venue when the official or employee is participating in a ceremony, public presentation or  
80 official meeting therein;

81 (g) Any payment, gift, compensation, fee, expenditure or anything of value which is  
82 bestowed upon or given to any public official or a staff member, employee, spouse or dependent  
83 child of a public official when it is compensation for employment or given as an employment  
84 benefit and when such employment is in addition to their employment as a public official;

85 (4) "Judicial lobbyist", any natural person who acts for the purpose of attempting to  
86 influence any purchasing decision by the judicial branch of government or by any elected or  
87 appointed official or any employee thereof and in connection with such activity, meets the  
88 requirements of any one or more of the following:

89 (a) Is acting in the ordinary course of employment which primary purpose is to influence  
90 the judiciary in its purchasing decisions on a regular basis on behalf of or for the benefit of such  
91 person's employer, except that this shall not apply to any person who engages in lobbying on an  
92 occasional basis only and not as a regular pattern of conduct; or

93 (b) Is engaged for pay or for any valuable consideration for the purpose of performing  
94 such activity; or

95 (c) Is designated to act as a lobbyist by any person, business entity, governmental entity,  
96 religious organization, nonprofit corporation or association; or

97 (d) Makes total expenditures of fifty dollars or more during the twelve-month period  
98 beginning January first and ending December thirty-first for the benefit of one or more public  
99 officials or one or more employees of the judicial branch of state government in connection with  
100 attempting to influence such purchasing decisions by the judiciary.

101

102 A "judicial lobbyist" shall not include a member of the general assembly, an elected state official,  
103 or any other person solely due to such person's participation in any of the following activities:

104 a. Appearing or inquiring in regard to a complaint, citation, summons, adversary  
105 proceeding, or contested case before a state court;

106 b. Participating in public hearings or public proceedings on rules, grants, or other  
107 matters;

108 c. Responding to any request for information made by any judge or employee of the  
109 judicial branch of government;

110 d. Preparing, distributing or publication of an editorial, a newsletter, newspaper,  
111 magazine, radio or television broadcast, or similar news medium, whether print or electronic; or

112 e. Acting within the scope of employment by the general assembly, or acting within the  
113 scope of employment by the executive branch of government when acting with respect to the  
114 department, division, board, commission, agency or elected state officer by which such person  
115 is employed, or with respect to any duty or authority imposed by law to perform any action in  
116 conjunction with any other public official or state employee;

117 (5) "Legislative lobbyist", any natural person who acts for the purpose of attempting to  
118 influence the taking, passage, amendment, delay or defeat of any official action on any bill,  
119 resolution, amendment, nomination, appointment, report or any other action or any other matter  
120 pending or proposed in a legislative committee in either house of the general assembly, or in any  
121 matter which may be the subject of action by the general assembly and in connection with such  
122 activity, meets the requirements of any one or more of the following:

123 (a) Is acting in the ordinary course of employment, which primary purpose is to influence  
124 legislation on a regular basis, on behalf of or for the benefit of such person's employer, except

125 that this shall not apply to any person who engages in lobbying on an occasional basis only and  
126 not as a regular pattern of conduct; or

127 (b) Is engaged for pay or for any valuable consideration for the purpose of performing  
128 such activity; or

129 (c) Is designated to act as a lobbyist by any person, business entity, governmental entity,  
130 religious organization, nonprofit corporation, association or other entity; or

131 (d) Makes total expenditures of fifty dollars or more during the twelve-month period  
132 beginning January first and ending December thirty-first for the benefit of one or more public  
133 officials or one or more employees of the legislative branch of state government in connection  
134 with such activity.

135

136 A "legislative lobbyist" shall include an attorney at law engaged in activities on behalf of any  
137 person unless excluded by any of the following exceptions. A "legislative lobbyist" shall not  
138 include any member of the general assembly, an elected state official, or any other person solely  
139 due to such person's participation in any of the following activities:

140 a. Responding to any request for information made by any public official or employee  
141 of the legislative branch of government;

142 b. Preparing or publication of an editorial, a newsletter, newspaper, magazine, radio or  
143 television broadcast, or similar news medium, whether print or electronic;

144 c. Acting within the scope of employment of the legislative branch of government when  
145 acting with respect to the general assembly or any member thereof;

146 d. Testifying as a witness before the general assembly or any committee thereof;

147 (6) "Lobbyist", any natural person defined as an executive lobbyist, judicial lobbyist,  
148 elected local government official lobbyist, or a legislative lobbyist;

149 (7) "Lobbyist principal", any person, business entity, governmental entity, religious  
150 organization, nonprofit corporation or association who employs, contracts for pay or otherwise  
151 compensates a lobbyist;

152 (8) "Public official", any member or member-elect of the general assembly, judge or  
153 judicial officer, or any other person holding an elective office of state government or any agency  
154 head, department director or division director of state government or any member of any state  
155 board or commission and any designated decision-making public servant designated by persons  
156 described in this subdivision.

105.473. 1. Each lobbyist shall, not later than January fifth of each year or five days  
2 after beginning any activities as a lobbyist, file standardized registration forms, verified by a  
3 written declaration that it is made under the penalties of perjury, along with a filing fee of ten  
4 dollars, with the commission. The forms shall include the lobbyist's name and business address,

5 the name and address of all persons such lobbyist employs for lobbying purposes, the name and  
6 address of each lobbyist principal by whom such lobbyist is employed or in whose interest such  
7 lobbyist appears or works. The commission shall maintain files on all lobbyists' filings, which  
8 shall be open to the public. Each lobbyist shall file an updating statement under oath within one  
9 week of any addition, deletion, or change in the lobbyist's employment or representation. The  
10 filing fee shall be deposited to the general revenue fund of the state. The lobbyist principal or  
11 a lobbyist employing another person for lobbying purposes may notify the commission that a  
12 judicial, executive or legislative lobbyist is no longer authorized to lobby for the principal or the  
13 lobbyist and should be removed from the commission's files.

14 2. Each person shall, before giving testimony before any committee of the general  
15 assembly, give to the secretary of such committee such person's name and address and the  
16 identity of any lobbyist or organization, if any, on whose behalf such person appears. A person  
17 who is not a lobbyist as defined in section 105.470 shall not be required to give such person's  
18 address if the committee determines that the giving of such address would endanger the person's  
19 physical health.

20 3. (1) During any period of time in which a lobbyist continues to act as an executive  
21 lobbyist, judicial lobbyist, legislative lobbyist, or elected local government official lobbyist, the  
22 lobbyist shall file with the commission on standardized forms prescribed by the commission  
23 monthly reports which shall be due at the close of business on the tenth day of the following  
24 month;

25 (2) Each report filed pursuant to this subsection shall include a statement, verified by a  
26 written declaration that it is made under the penalties of perjury, setting forth the following:

27 (a) The total of all expenditures by the lobbyist or his or her lobbyist principals made on  
28 behalf of all public officials, their staffs and employees, and their spouses and dependent  
29 children, which expenditures shall be separated into at least the following categories by the  
30 executive branch, judicial branch and legislative branch of government: printing and publication  
31 expenses; media and other advertising expenses; travel; the time, venue, and nature of any  
32 entertainment; honoraria; meals, food and beverages; and gifts;

33 (b) The total of all expenditures by the lobbyist or his or her lobbyist principals made on  
34 behalf of ~~[all] elected local government officials[, their staffs and employees, and their spouses~~  
35 ~~and children]~~ **at any event described under subsection 14 of this section and a description**  
36 **of the event.** Such expenditures shall be separated into at least the following categories:  
37 printing and publication expenses; media and other advertising expenses; travel; the time, venue,  
38 and nature of any entertainment; honoraria; meals; food and beverages; and gifts;

39 (c) An itemized listing of the name of the recipient and the nature and amount of each  
40 expenditure by the lobbyist or his or her lobbyist principal, including a service or anything of

41 value, for all expenditures made during any reporting period, paid or provided to or for a public  
42 official or ~~[elected local government official,]~~ such official's staff, employees, spouse or  
43 dependent children;

44 (d) The total of all expenditures made by a lobbyist or lobbyist principal for occasions  
45 and the identity of the group invited, the date and description of the occasion and the amount of  
46 the expenditure for each occasion when any of the following are invited in writing:

47 a. All members of the senate;

48 b. All members of the house of representatives;

49 c. All members of a joint committee of the general assembly or a standing committee of  
50 either the house of representatives or senate; or

51 d. All members of a caucus of the majority party of the house of representatives, minority  
52 party of the house of representatives, majority party of the senate, or minority party of the senate;

53 (e) Any expenditure made on behalf of a public official~~[-an elected local government~~  
54 ~~official]~~ or such official's staff, employees, spouse or dependent children, if such expenditure is  
55 solicited by such official, the official's staff, employees, or spouse or dependent children, from  
56 the lobbyist or his or her lobbyist principals and the name of such person or persons, except any  
57 expenditures made to any not-for-profit corporation, charitable, fraternal or civic organization  
58 or other association formed to provide for good in the order of benevolence;

59 (f) A statement detailing any direct business relationship or association or partnership  
60 the lobbyist has with any public official or elected local government official. The reports  
61 required by this subdivision shall cover the time periods since the filing of the last report or since  
62 the lobbyist's employment or representation began, whichever is most recent.

63 4. No expenditure reported pursuant to this section shall include any amount expended  
64 by a lobbyist or lobbyist principal on himself or herself. All expenditures disclosed pursuant to  
65 this section shall be valued on the report at the actual amount of the payment made, or the  
66 charge, expense, cost, or obligation, debt or bill incurred by the lobbyist or the person the  
67 lobbyist represents. Whenever a lobbyist principal employs more than one lobbyist, expenditures  
68 of the lobbyist principal shall not be reported by each lobbyist, but shall be reported by one of  
69 such lobbyists. No expenditure shall be made on behalf of a state senator or state representative,  
70 or such public official's staff, employees, spouse, or dependent children for travel or lodging  
71 outside the state of Missouri unless such travel or lodging was approved prior to the date of the  
72 expenditure by the administration and accounts committee of the house or the administration  
73 committee of the senate.

74 5. Any lobbyist principal shall provide in a timely fashion whatever information is  
75 reasonably requested by the lobbyist principal's lobbyist for use in filing the reports required by  
76 this section.

77           6. All information required to be filed pursuant to the provisions of this section with the  
78 commission shall be kept available by the executive director of the commission at all times open  
79 to the public for inspection and copying for a reasonable fee for a period of five years from the  
80 date when such information was filed.

81           7. No person shall knowingly employ any person who is required to register as a  
82 registered lobbyist but is not registered pursuant to this section. Any person who knowingly  
83 violates this subsection shall be subject to a civil penalty in an amount of not more than ten  
84 thousand dollars for each violation. Such civil penalties shall be collected by action filed by the  
85 commission.

86           8. No lobbyist shall knowingly omit, conceal, or falsify in any manner information  
87 required pursuant to this section.

88           9. The prosecuting attorney of Cole County shall be reimbursed only out of funds  
89 specifically appropriated by the general assembly for investigations and prosecutions for  
90 violations of this section.

91           10. Any public official or other person whose name appears in any lobbyist report filed  
92 pursuant to this section who contests the accuracy of the portion of the report applicable to such  
93 person may petition the commission for an audit of such report and shall state in writing in such  
94 petition the specific disagreement with the contents of such report. The commission shall  
95 investigate such allegations in the manner described in section 105.959. If the commission  
96 determines that the contents of such report are incorrect, incomplete or erroneous, it shall enter  
97 an order requiring filing of an amended or corrected report.

98           11. The commission shall provide a report listing the total spent by a lobbyist for the  
99 month and year to any member or member-elect of the general assembly, judge or judicial  
100 officer, or any other person holding an elective office of state government [~~or any elected local~~  
101 ~~government official~~] on or before the twentieth day of each month. For the purpose of providing  
102 accurate information to the public, the commission shall not publish information in either written  
103 or electronic form for ten working days after providing the report pursuant to this subsection.  
104 The commission shall not release any portion of the lobbyist report if the accuracy of the report  
105 has been questioned pursuant to subsection 10 of this section unless it is conspicuously marked  
106 "Under Review".

107           12. Each lobbyist or lobbyist principal by whom the lobbyist was employed, or in whose  
108 behalf the lobbyist acted, shall provide a general description of the proposed legislation or action  
109 by the executive branch or judicial branch which the lobbyist or lobbyist principal supported or  
110 opposed. This information shall be supplied to the commission on March fifteenth and May  
111 thirtieth of each year.

112           **13. (1) Notwithstanding any provision of law other than the provisions of this**  
113 **subsection, no elected local government official lobbyist shall make any expenditure for**  
114 **any public official of the state, his or her staff or employees, or his or her spouse or**  
115 **dependent children.**

116           **(2) Notwithstanding subdivision (1) of this subsection, elected local government**  
117 **official lobbyists may invite all members of the general assembly to an event. Elected local**  
118 **government official lobbyists may make expenditures for each such event so long as they**  
119 **deliver any item, service, or thing of value to all members of the general assembly who**  
120 **appear at the event.**

121           **14. (1) Notwithstanding any provision of law other than the provisions of this**  
122 **subsection, no lobbyist shall make any expenditure for any elected or appointed official of**  
123 **any political subdivision of the state, a superintendent or school board member of a school**  
124 **district, or a member of the governing body of a charter school, or any such person's staff,**  
125 **employees, spouse, or dependent children.**

126           **(2) Notwithstanding subdivision (1) of this subsection, lobbyists may invite all**  
127 **elected or appointed officials of a particular political subdivision to an event. Lobbyists**  
128 **may make expenditures for each such event so long as they deliver any item, service, or**  
129 **thing of value to all elected or appointed officials of a particular political subdivision who**  
130 **appear at the event.**

131           **15. The provisions of this section shall supersede any contradicting ordinances or charter**  
132 **provisions.**

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