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## Bill Analysis

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**Primary Sponsor:** Rep. Merrin

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### SUMMARY

- Enacts the Ethics and Financial Disclosure Reform Act to make several changes to the laws governing ethics for public officials and employees and reporting requirements for lobbyists.

#### **Statewide elected officials' service on corporate boards**

- Prohibits a statewide elected official from receiving compensation or other payment for serving on the board of directors of a corporation, with certain exceptions.
- Requires a statewide elected official who receives compensation for board service to include certain information in the official's annual financial disclosure statement (FDS) filed under the Ethics Law.
- Requires the Ohio Ethics Commission (OEC) to fine an official who violates that prohibition in an amount equal to the illegally received compensation.

#### **Public Utilities Commission nominees**

- Requires every nominee who is submitted to the Governor for possible appointment to the Public Utilities Commission of Ohio (PUCO) first to submit a disclosure statement about the nominee's business relationships and ties to entities regulated by PUCO.
- Requires the statement to be made available to the public online by the time the nominee is submitted to the Governor.
- Provides for the OEC to enforce the new PUCO disclosure requirements.

#### **Public officials' financial disclosure statements**

##### **Contents of FDS**

- Changes the list of family members a filer must name in an FDS to exclude minor children and to include a spouse who does not live with the filer.

- Modifies the requirement that a filer disclose the filer’s sources of income by doing all of the following:
  - Allows the filer to identify the source of rental income from residential property by the address of the property, the name of the tenant, or both.
  - Requires the filer to include a brief description of the nature of the filer’s business, if the filer receives business income.
  - Clarifies that a filer is not required to disclose income derived by and received in the name of the filer’s spouse that is not clearly designated for the use and benefit of the filer.
  - Modifies the income ranges that General Assembly members must use to report the amount received from each source of income.
- Makes changes to the creditor and debtor information a filer must disclose, including adding exceptions for debts that were paid in full within 60 days.
- Adds a definition of “gift” for purposes of the requirement that a filer disclose the source of certain gifts and excludes certain items from that definition.
- Specifies that the source of payment for food and beverages served at certain events is exempt from disclosure only if the food and beverages are intended for consumption at the event.
- Eliminates a requirement that an FDS include a list of the expenditures the filer received from lobbyists.

### **Filing an amended FDS**

- Creates a process to file an amended FDS to correct errors.

### **Elimination of post-employment disclosure**

- Eliminates a requirement that a former state elected officer or staff member who was an FDS filer continue to file disclosure statements with certain information for two years after leaving the filer’s service or employment.

### **Public access to FDS**

- Requires the OEC to publish on its official website each FDS filed by a person who holds or is a candidate for an elected office, beginning with FDS filed for 2025.
- Requires those statements also to include a link to the Secretary of State’s campaign finance database.

## **Lobbying**

### **Definition of lobbyist**

- Defines a legislative lobbyist (legislative agent) as a person for whom lobbying constitutes at least 5% of the total performance time for which the person is compensated by a specific employer.

- Defines an executive agency lobbyist as a person for whom lobbying constitutes at least 25% of the total performance time for which the person is compensated by a specific employer.
- Defines a retirement system lobbyist as a person for whom lobbying constitutes at least 25% of the total performance time for which the person is compensated by a specific employer.

### **Disclosure of lobbyist compensation**

- Requires lobbyists and their employers to disclose the amounts employers paid for lobbying activity.
- Requires an employer to disclose the total amounts it paid to lobbyists of each type as compensation for lobbying on the employer's behalf or as reimbursement for expenses incurred while lobbying on the employer's behalf.
- Requires generally that a lobbyist or lobbying firm disclose the total amount received from the employer as compensation for lobbying on the employer's behalf or as reimbursement for expenses incurred while lobbying on the employer's behalf.

### **Food and beverage expenditures**

- Clarifies that a lobbyist must report the total expenditures made for food and beverages at certain exempt events, but is not required to itemize the expenditures by naming the guests.
- Clarifies that food and beverages served at those exempt events are exempt only if they are intended for consumption at the event.

### **Disputed expenditures and financial transactions**

- Requires a lobbyist to postpone filing a statement that contains a disputed expenditure or financial transaction until the Joint Legislative Ethics Committee (JLEC) resolves the dispute, instead of postponing only the reporting of that particular expenditure or transaction.

### **Duplicative statements**

- Allows a lobbyist to refrain from reporting an item if the lobbyist's employer reports it.

### **Public access to lobbying information**

- Explicitly requires JLEC to publish lobbying statements on its official website, which it currently does.
- Requires that, beginning January 1, 2025, those statements also include a link to the Secretary of State's campaign finance database.
- Eliminates a requirement that JLEC distribute lists of registered lobbyists and employers to certain public officials, but still requires JLEC to produce those lists and make them available.

- Eliminates a requirement that JLEC maintain a list of all executive agencies and make it available to the public upon request, and requires the Ohio Ethics Commission (OEC) to do so instead.

### **Lobbyist registration schedule**

- Synchronizes the registration periods for executive agency and retirement system lobbyists with the current registration periods for legislative lobbyists by making all registration periods coincide with a legislative biennium.

### **Elimination of General Assembly revolving door law**

- Eliminates a provision of law that prohibited a former member or employee of the General Assembly, for one year after leaving office, from representing any person, other than a state agency or political subdivision, on any matter before the General Assembly or the Controlling Board, as that law has been ruled unconstitutional.

### **BCII enforcement assistance**

- Specifies that the Bureau of Criminal Identification and Investigation (BCII) may assist the OEC and JLEC in investigating violations of the Ethics Law, upon request.

### **Technical changes**

#### **Supreme Court Board of Professional Conduct**

- Updates several references to the Supreme Court Board of Commissioners on Grievances and Discipline to refer to the Board of Professional Conduct, which is that entity's current name.

#### **Changes for readability**

- Makes a number of wording and organizational changes to the Ethics and Lobbying Law in an effort to make the law easier to read, without changing the substance of the law.

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## DETAILED ANALYSIS

The bill, called the Ethics and Financial Disclosure Reform Act, makes several changes to the laws governing ethics for public officials and employees and reporting requirements for lobbyists.<sup>1</sup>

### **Statewide elected officials’ service on corporate boards**

The bill prohibits a statewide elected official (the Governor, Lieutenant Governor, Attorney General, Auditor of State, Treasurer of State, or Secretary of State or the Chief Justice or a Justice of the Supreme Court) from receiving compensation or other payment for serving on the board of directors of a corporation, unless one of the following exceptions applies:

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<sup>1</sup> Section 5 of the bill.

- The person is the sole shareholder of the corporation.
- Both of the following are true:
  - The person was a member of the board of directors and received compensation or other payment for the person's service in that role before the person held any statewide elected office.
  - The person had an ownership interest in the corporation before the person held any statewide elected office and continues to have such an interest.
- The person was a statewide officeholder before the bill takes effect, which would allow the person to continue receiving the same amount of compensation, or a lesser amount, for serving on the board of directors of that particular corporation.

For example, if a person is part owner of a company and is compensated for serving on the board, and *then* is elected to a statewide office, the person may continue to receive that compensation as long as the person remains a part owner of the company. Or, if a person starts a company after being elected, but is the sole shareholder, the person may be compensated for serving on the board.

Further, the bill requires a statewide elected official who receives compensation for board service to include all of the following information in the official's annual financial disclosure statement (FDS) filed under the Ethics Law:

- The name of the corporation;
- The amount of compensation or other payment received for serving on the board during that year;
- The date the person began serving on the board;
- The nature of the person's ownership interest in the corporation, if any;
- The date the person acquired that ownership interest.

Under the bill, the Ohio Ethics Commission (OEC) has the authority to enforce this restriction. After receiving a complaint of a violation and holding a hearing, if the OEC finds by a preponderance of the evidence that the person has received compensation or other payment in violation of the bill, the OEC must fine the person in an amount equal to the amount of compensation or other payment the person received for serving on the board. The OEC must deposit the fine in its operating fund.

The continuing Ethics Law prohibits a public official or employee from receiving compensation other than from the person's agency for performing any services in matters pending before a state agency. But, if the person performs services unrelated to the person's government position, receiving outside compensation for those services would not necessarily violate the law.

Continuing law would require a public official who received compensation for serving on a corporate board to disclose that fact on the official's FDS, but only by listing the corporation as the source of income. The official would not be required to include the actual amount of the

income, except that a member of the General Assembly must report the general amount within certain listed ranges (see “**Contents of FDS**,” below).<sup>2</sup>

## **Public Utilities Commission nominees**

The bill requires every nominee who is submitted to the Governor for possible appointment to the Public Utilities Commission of Ohio (PUCO) first to submit a disclosure statement. Under continuing law, the PUCO Nominating Council submits names to the Governor, and the Governor must choose a person recommended by the Nominating Council. The appointment is also subject to the advice and consent of the Senate.

A nominee must file a complete and accurate statement under the bill with the Nominating Council and the OEC not more than 60 days before being submitted to the Governor as a possible appointee. The statement must be on a form prescribed by the OEC and must include all of the following information:

- The name of the filer and all names under which the filer does, or has done, business;
- The name of the filer’s spouse and of each dependent child of the filer who is 18 or older and who resides in the filer’s household, and all names under which those persons do, or have done, business;
- The name of every corporation, trust, business trust, partnership, or association in which the filer or those family members hold, or have held, any office, or with which the filer or those family members have, or have had, a fiduciary relationship, and a description of the nature of the office or relationship;
- The name of every public utility, railroad, or other entity regulated by PUCO from which the filer, those family members, or any other person for the filer’s use or benefit have received income at any time, and the amount of that income;
- The name of every public utility, railroad, or other entity regulated by PUCO with which the filer or those family members have had a contractual relationship at any time (other than a contract to receive services as a consumer on the same terms available to other consumers) and the amount of any money or other things of value received, or to be received in the future, under that contract.

The statement may be filed in person, by mail, or by electronic means. The statement is a public record and must be made available on the PUCO and OEC websites by the time the nominee is submitted to the Governor.

Continuing law requires PUCO commissioners to file an annual FDS, but does not require nominees to file before they become commissioners. As is discussed below, an FDS would include only some of the information listed above, and only with respect to the most recent calendar year.

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<sup>2</sup> R.C. 102.02(B)(2)(a)(vi) and (J)(2), 102.06(C)(1)(b), and 102.10. See also R.C. 102.04, not in the bill.

Under the bill, knowingly filing a false disclosure statement is a first degree misdemeanor, the same as the penalty for filing a false FDS. The bill gives the OEC jurisdiction to enforce the law governing PUCO nominee disclosure statements in the same manner as it currently enforces the law governing FDS. When the OEC investigates a violation of that provision, the bill allows the OEC, in its discretion, to share otherwise confidential information gathered in the course of its investigation with the Governor or the PUCO Nominating Council, in addition to the Inspector General, law enforcement, an appropriate prosecutor, the Joint Legislative Ethics Committee (JLEC), or the Supreme Court Board of Professional Conduct (BPC), as it may do with any other investigation.<sup>3</sup>

## **Public officials' financial disclosure statements (FDS)**

Continuing law requires elected state, county, and city officials, candidates for those offices, and numerous appointed officeholders and upper level state employees to file an annual FDS with the appropriate ethics commission. Executive branch officials file with the OEC, while legislative branch officials file with JLEC and judicial branch officials file with the BPC.

The bill does not change the list of persons who must file an FDS, but it does make several changes to the required content of an FDS and to related procedures. (The bill does add a few officials to the list of filers in the section of law governing FDS, but those officials are already required to file under other sections of the Revised Code. This change is technical.)<sup>4</sup>

### **Contents of FDS**

#### **Immediate family**

The bill requires a filer to list the name of the filer's spouse and of each dependent child of the filer who is 18 or older and lives in the filer's household. Existing law requires the filer to list the name of any dependent child, including a minor. And, existing law includes an exception, eliminated by the bill, that allows a filer to refrain from listing a spouse who does not live in the filer's household.

Continuing law requires the filer also to list all names under which the filer and those named family members do business.<sup>5</sup>

#### **Income**

Under continuing law, a filer must disclose the source of all income the filer received during the previous calendar year in the filer's own name or by any other person for the filer's use or benefit. The bill makes a few changes with respect to that requirement.

First, if the filer receives rental income from residential property the filer owns, the filer may identify the source of the income by providing the address of the property, the name of the tenant, or both. This requirement is consistent with existing JLEC guidance. (As is

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<sup>3</sup> R.C. 102.06, 4901.021, 4901.022, and 4901.99.

<sup>4</sup> R.C. 102.02 and conforming changes in R.C. 101.15, 122.651, 184.01, 184.03, and 4503.033.

<sup>5</sup> R.C. 102.02(B)(1). See also R.C. 102.01(D).

mentioned below, the address of the rental property also must be disclosed separately under the filer's real estate holdings if it is located in Ohio.)

Next, if the filer receives income from a business, the bill requires the filer to include a brief description of the nature of the business. Continuing law requires the filer to provide a brief description of the nature of the services for which income was received, but the current statute does not specify what should be provided if the income was not in exchange for the filer's services.

The bill clarifies that a filer is not required to disclose income derived by and received in the name of the filer's spouse that is not clearly designated for the use and benefit of the filer. This is consistent with guidance from the OEC and JLEC.

The bill also modifies the income ranges that General Assembly members must use to report the amount received from each source of income. Currently, those ranges are:

- A – \$0-999;
- B – \$1,000-9,999;
- C – \$10,000-24,999;
- D – \$25,000-49,999;
- E – \$50,000-99,999;
- F – \$100,000 or more.

The bill changes range F to \$100,000-249,999 and adds an additional range, G, for \$250,000 or more. Under continuing law, only legislators are required to report income ranges.

Finally, as is discussed above under "**Statewide elected officials' service on corporate boards**," the bill requires a statewide elected official who receives compensation or other payment for serving on the board of directors of a corporation to report certain information about that service in order to ensure compliance with the bill's restrictions.

Under continuing law, relocated but unchanged by the bill, a filer is not required to disclose the individual items of income that constitute the gross income of a business or profession, and is not required to disclose confidential information about patients or clients. However, a filer must separately disclose the source and amount of any income received from a person who the filer knows or has reason to know is doing or seeking to do business with the filer's agency. And, a member of the General Assembly must separately disclose the source and amount of any income received from a legislative lobbyist, including individual items of business income and otherwise confidential patient or client information.<sup>6</sup>

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<sup>6</sup> R.C. 102.02(B)(2). See also Ohio Ethics Commission, [Advisory Opinion No. 75-036](#) (PDF) (1975), available at [ethics.ohio.gov](http://ethics.ohio.gov) under "Advice," "Formal Opinions," and Joint Legislative Ethics Committee, [Calendar Year 2021 Financial Disclosure Statement Frequently Asked Questions & Answers](#) (PDF), p. 6, available at [jlec-olig.state.oh.us](http://jlec-olig.state.oh.us) under "Financial Disclosure," "Frequently Asked Questions."

## **Investments and corporate relationships (unchanged)**

The bill retains existing provisions of law that require a filer to report the name of every corporation, trust, business trust, partnership, or association that transacts business in Ohio in which the filer, or any other person for the filer's use or benefit, had an investment of over \$1,000 during the last calendar year, other than a deposit or withdrawable share bank account. And, the filer must report the name of every such entity in which the filer holds any office or has a fiduciary relationship. The filer must include a description of the nature of the investment, office, or relationship.<sup>7</sup>

## **Real property in Ohio (unchanged)**

The bill also retains, unchanged, provisions of law that require a filer to disclose the address of any real property in Ohio in which the filer has a legal interest, other than the filer's residence and property used primarily for personal recreation.<sup>8</sup>

## **Creditors**

Under the bill, the filer must disclose the names of all persons residing or transacting business in Ohio to whom the filer owed more than \$1,000 during the preceding calendar year, in the filer's own name or in the name of another. Currently, a filer must disclose the names of all such persons to whom the filer owes such a debt.

The bill also specifies that a debt is not required to be disclosed if it was paid in full within 60 days after it was incurred. JLEC currently advises filers that they are not required to disclose debts that were paid in full within 30 days.

Under continuing law, a filer is not required to disclose debts resulting from the ordinary conduct of a business or profession or debts on the filer's residence or real property used primarily for personal recreation. But, the Superintendent of Financial Institutions and any deputy superintendent of banks must disclose the names of all state-chartered banks, and all bank subsidiary corporations in which the state may invest, to which the Superintendent or deputy superintendent owes any money.<sup>9</sup>

## **Debtors**

The bill requires the filer to disclose the names of all persons residing or transacting business in Ohio, other than a financial institution with which the filer has a deposit or withdrawable share account, who owed more than \$1,000 to the filer during the preceding calendar year in the filer's own name or to any other person for the filer's use or benefit. Existing law requires the filer to disclose the names of those persons who owe the filer such a debt.

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<sup>7</sup> R.C. 102.02(B)(3).

<sup>8</sup> R.C. 102.02(B)(4).

<sup>9</sup> R.C. 102.02(B)(5).

The bill also specifies that a debt is not required to be disclosed if it was paid in full within 60 days after it was incurred. As with creditors, JLEC currently advises filers that they are not required to disclose debts that were paid in full within 30 days.

Continuing law exempts the disclosure of debts owed to the filer resulting from the ordinary conduct of a business or profession and the confidential names of any patients or clients.<sup>10</sup>

## **Gifts**

Continuing law requires a filer to report the source of each gift of over \$75 received in the filer's own name or by any other person for the filer's use or benefit during the preceding calendar year. If the filer is a member of the General Assembly, the filer also must report the source of each such gift of over \$25 received from a legislative lobbyist. The law separately limits the ability of public officials to accept gifts in connection with their official duties.

For the purpose of the FDS reporting requirement, the bill adds a definition of "gift" that is similar to the definition of "expenditure" under the Lobbying Law. "Gift" means any of the following that is made to, at the request of, for the benefit of, or on behalf of the filer:

- A payment, distribution, loan, advance, deposit, reimbursement, or gift of money, real estate, or anything of value, including food and beverages, entertainment, lodging, transportation, and honorariums;
- A contract, promise, or agreement to make an expenditure, whether or not legally enforceable;
- The purchase, sale, or gift of services or any other thing of value.

However, the bill exempts the following items from disclosure as a gift:

- A contribution, gift, or grant to a foundation or other 501(c)(3) charitable organization;
- The purchase, sale, or gift of services or any other thing of value that is available to the general public on the same terms as it is available to the filer;
- An offer or sale of securities to the filer that is governed by federal regulations adopted under the Securities Act of 1933, or governed by a comparable provision under state law.

Under continuing law, a gift also is not required to be reported if the filer receives it by will or inheritance; from the filer's spouse, parent, grandparent, child, grandchild, sibling, nephew, niece, uncle, aunt, brother-in-law, sister-in-law, son-in-law, daughter-in-law, father-in-law, mother-in-law, or any person to whom the filer stands in loco parentis; or by way of distribution from an inter vivos or testamentary trust established by a spouse or an ancestor.

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<sup>10</sup> R.C. 102.02(B)(6).

As is discussed below, the payment of expenses incurred for travel or food and beverages in connection with the filer's official duties is also exempted from the definition of a gift because it must be reported separately under continuing law.<sup>11</sup>

### **Travel in connection with official duties (unchanged)**

The bill retains, without changing, a requirement that a filer disclose the source and amount of every payment of expenses incurred for travel, within or outside Ohio, that is received in the filer's own name or by any other person for the filer's use or benefit and that is incurred in connection with the filer's official duties. The law includes an exception for the payment of expenses for travel to meetings or conventions of a national or state organization to which any state agency or political subdivision pays membership dues (for example, the National Conference of State Legislatures). Continuing law also limits the types of travel expenses that a public official may accept.<sup>12</sup>

### **Food and beverages in connection with official duties**

Continuing law requires a filer to disclose the source of payment of expenses for food and beverages that are incurred in connection with the filer's official duties and that exceed \$100 aggregated per calendar year. (The law separately limits filers' ability to accept food and beverages.) However, a filer is not required to report the source of payment for food and beverages provided at either of the following:

- A meeting at which the filer participated in a panel, seminar, or speaking engagement;
- A meeting or convention of a national or state organization to which a state agency or political subdivision pays membership dues.

The bill adds a caveat to those exceptions to specify that the source of payment for food and beverages at those events is exempt from disclosure only if the food and beverages are intended for consumption at the event. For example, if a filer is served caviar hors d'oeuvres at a convention, the filer is not required to report the source. But, if the source distributes cans of caviar at the convention for filers to take home, the filer must report the source.<sup>13</sup>

### **Lobbyist expenditures**

The bill eliminates a requirement that an FDS include a list of the expenditures the filer received from lobbyists. Under continuing law, that information is available to the public in lobbying statements filed with JLEC.<sup>14</sup>

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<sup>11</sup> R.C. 102.02(B)(7). See also R.C. 101.70, 101.90, 121.60, 102.03, and 102.031.

<sup>12</sup> R.C. 102.02(B)(8). See also R.C. 102.03(H) and 102.031.

<sup>13</sup> R.C. 102.02(B)(9). See also R.C. 102.03(H) and 102.031.

<sup>14</sup> Current R.C. 102.02(A)(2)(j) and conforming change in R.C. 102.01(L).

## **Reduced disclosure requirements under continuing law**

Current law requires certain filers to provide a reduced amount of information on their FDS. Under the FDS section for sources of income, those filers report only sources of income over \$500. And, under the FDS section for gifts, travel, and food and beverages, those filers report only gifts over \$500, combined as a single category. The bill leaves those provisions in place, but specifies that the changes described above concerning which income and gifts must be reported also apply to those filers.<sup>15</sup>

## **Filing an amended FDS**

The bill creates a process to file an amended FDS to correct errors. The amended FDS must include a written explanation of the information being amended and the reason for the amendment. If the filer submits the amended FDS by the 60<sup>th</sup> day after the original FDS filing deadline, the appropriate ethics commission generally must accept and retain the amended FDS in the same manner as the original FDS and must acknowledge receipt.

Beginning on the 61<sup>st</sup> day after the original filing deadline, a filer may file an amended FDS only in order to correct an error made in good faith. The appropriate ethics commission may, but is not required to, accept the amended FDS. However, the appropriate ethics commission must reject the amended FDS if it determines that the filer did not make an error in good faith; knowingly failed to provide the required information; or knowingly filed a false statement.

The appropriate ethics commission also may reject an amended FDS filed at any time if any of the information in the statement is material to a complaint, charge, or inquiry.<sup>16</sup>

## **Elimination of post-employment disclosure**

The bill eliminates a requirement that a former state elected officer or staff member who was an FDS filer continue to file disclosure statements with certain information for two years after leaving the filer's service or employment. Post-employment disclosure statements are largely intended to collect information about former officials and employees who become legislative or executive agency lobbyists or go to work for state contractors. Such a person who becomes a lobbyist still must register with JLEC and file lobbying statements, as discussed below.<sup>17</sup>

## **Public access to FDS**

Under the bill, beginning with FDS filed for 2025, the OEC must publish on its official website each FDS filed by a person who holds or is a candidate for an elected office. Those statements must include a link to the Secretary of State's campaign finance database. Current law generally requires the OEC to make FDS available for public inspection, but does not require

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<sup>15</sup> R.C. 102.022 and conforming changes in R.C. 187.03.

<sup>16</sup> R.C. 102.02(G) and conforming changes in R.C. 101.34.

<sup>17</sup> Repeal of R.C. 102.021 and conforming changes in R.C. 101.34, 102.031, 102.06, and 3781.343.

that they be available online. The bill also relocates, without changing, other language regarding public access to FDS, including requirements that certain filers' statements be kept confidential.<sup>18</sup>

## Lobbying

The bill makes parallel changes in the areas of the Revised Code that govern the three categories of lobbyists who are subject to state regulation:

- Legislative lobbyists, called “legislative agents” in the statute, who are paid to lobby the General Assembly regarding legislation;
- Executive agency lobbyists, who are paid to lobby executive agencies regarding policy decisions and vendor contracts; and
- Retirement system lobbyists, who are paid to lobby the governing bodies of the state’s public pension systems regarding investment decisions.

All three types of lobbyists are regulated by JLEC, and the regulations are largely the same for each type. Under continuing law, lobbyists and their employers must register with JLEC and file periodic disclosure statements about their activities.

### Definition of lobbyist

#### Legislative lobbyists

The bill defines a legislative lobbyist as a person whose direct communication with a listed public official for the purpose of actively advocating constitutes at least 5% of the total performance time for which the person is compensated by a specific employer. Current law defines a legislative lobbyist as a person who is engaged during at least a portion of the person’s time to actively advocate as one of the person’s main purposes. Under continuing law, “actively advocate” means to promote, advocate, or oppose the passage, modification, defeat, or executive approval or veto of any legislation by direct communication with any listed public official. This change is consistent with current JLEC guidance about who is considered a lobbyist.

Additionally, the bill eliminates a provision stating that a person who is engaged by the Ohio Casino Control Commission, a member of the Commission, its executive director, or an employee or agent of the Commission is considered a legislative lobbyist, even if the person does not actively advocate as one of the individual’s main purposes during at least a portion of the person’s time. Instead, the bill applies the 5% test described above to Commission lobbyists.<sup>19</sup>

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<sup>18</sup> R.C. 102.07 and conforming changes in R.C. 101.15, 102.06, 102.99, and current R.C. 102.02(B)(7).

<sup>19</sup> R.C. 101.70. See also Joint Legislative Ethics Committee, [Ohio Lobbying Handbook \(PDF\)](#), p. 14, available at [jlec-olig.state.oh.us](http://jlec-olig.state.oh.us) under “Lobbying.”

## **Executive agency lobbyists**

The bill defines an executive agency lobbyist as a person whose direct communication with executive agency officials or employees for the purpose of influencing executive agency decisions or conducting executive agency lobbying activity constitutes at least 25% of the total performance time for which the person is compensated by a specific employer. Continuing law makes an exception for an elected or appointed government officer or employee who attempts to influence or affect executive agency decisions in a fiduciary capacity as a representative of the person's government agency.

Under existing law, an executive agency lobbyist is a person engaged to influence executive agency decisions or to conduct executive agency lobbying activity as one of the person's main purposes on a regular and substantial basis. The bill's new definition mirrors JLEC guidance.<sup>20</sup>

## **Retirement system lobbyists**

Similarly, the bill changes the definition of a retirement system lobbyist to mean a person whose direct communication with retirement system officials or employees for the purpose of influencing retirement system decisions or conducting retirement system lobbying activity constitutes at least 25% of the total performance time for which the person is compensated by a specific employer. Continuing law makes an exception for an elected or appointed government officer or employee who attempts to influence or affect retirement system decisions in a fiduciary capacity as a representative of the person's government agency.

Currently, a retirement system lobbyist is a person engaged to influence retirement system decisions or to conduct retirement system lobbying activity as one of the person's main purposes on a regular and substantial basis. The bill's language matches current JLEC guidance.<sup>21</sup>

## **Disclosure of lobbyist compensation**

The bill requires lobbyists and their employers to disclose the amounts employers paid for lobbying activity when they file their updated registration statements in January, May, and September. This is the same as the current schedule by which lobbyists and employers must report any expenditures made for the benefit of public officials and any financial transactions with public officials. Under the bill, JLEC must make the compensation information available to the public in the same manner as other lobbying statements. Currently, lobbyists and employers do not report this information.<sup>22</sup>

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<sup>20</sup> R.C. 121.60. See also *Ohio Lobbying Handbook*, p. 15.

<sup>21</sup> R.C. 101.90. See also *Ohio Lobbying Handbook*, p. 17.

<sup>22</sup> R.C. 101.741, 101.941, and 121.641 and conforming changes in R.C. 101.34, 101.71, 101.72, 101.76, 101.78, 101.91, 101.92, 101.96, 101.98, 121.61, 121.62, 121.66, and 121.68.

## **Employer disclosure**

For each filing period and for each of the three types of lobbying, an employer must disclose the total amount it paid to lobbyists as compensation for lobbying on the employer's behalf or as reimbursement for expenses incurred while lobbying on the employer's behalf.

If an employer has an in-house lobbyist (a lobbyist who lobbies only for that employer and is not part of a lobbying firm), and the in-house lobbyist only lobbies as part of the lobbyist's job, the employer must calculate the reportable compensation by multiplying the lobbyist's total compensation by the percentage of work time the lobbyist spends lobbying. For example, if an in-house lobbyist is paid \$50,000 in a filing period, but only lobbies for 50% of the lobbyist's work time, the employer must report paying the lobbyist \$25,000. As long as an employer properly reports an in-house lobbyist's compensation, the in-house lobbyist is not required to file a separate report of the compensation.

## **Lobbyist disclosure**

Further, for each employer during each filing period, a lobbyist must disclose the total amount the lobbyist received from the employer as compensation for lobbying on the employer's behalf or as reimbursement for expenses incurred while lobbying on the employer's behalf. However, two exceptions allow lobbyists to avoid filing their own compensation disclosures:

First, a lobbying firm (a group of two or more lobbyists that is engaged by an employer to lobby) must submit a joint statement on behalf of all lobbyists the firm compensated for lobbying on behalf of the employer. The joint statement must include the total amount the firm received from the employer and the name of each lobbyist who lobbied on behalf of the employer. A lobbyist who is part of a firm is not required to submit an individual disclosure for any amounts that are covered by the joint statement. But, if the firm fails to file a joint statement, each lobbyist must submit a statement that includes the total amounts for the lobbyist and the firm.

Second, an in-house lobbyist is not required to submit a compensation statement if the in-house lobbyist's employer reports the compensation on its statement, as described above.

## **Food and beverage expenditures**

Under continuing law, a lobbyist must report any expenditures of more than \$50 made as payment for meals and other food and beverages for a listed public official by reporting the name of the official and the specific amount. (The law separately limits the amount a public official may accept.) However, the law includes exceptions to itemized reporting for food and beverages a legislative or executive agency lobbyist provides to an official at any of the following:

- A meeting at which the official participated in a panel, seminar, or speaking engagement;
- A meeting or convention of a national organization to which a state agency pays membership dues;

- An event hosted by a legislative lobbyist or employer to which all members of the General Assembly, or all members of one house of the General Assembly, are invited (an “all-invited” event).

The bill clarifies that for all of these types of events, a legislative lobbyist must report the total amount of expenditures for the event, but is not required to itemize the expenditures by naming the guests. The bill also clarifies that food and beverages at those events are exempt from itemized reporting only if they are intended for consumption at the event. These requirements are consistent with current JLEC guidance.<sup>23</sup>

### **Disputed expenditures and financial transactions**

The bill requires a lobbyist to postpone filing a statement that contains a disputed expenditure or financial transaction until JLEC resolves the dispute. Under existing law, the lobbyist must postpone the reporting of that particular expenditure or transaction, but still must file the rest of the statement.

Continuing law requires a lobbyist, at least ten days before filing a statement, to provide a copy to each public official who is named in the statement as receiving an expenditure or being involved in a financial transaction with the lobbyist. If the official disputes the statement, the parties may file a complaint with JLEC and ask JLEC to determine what should be reported.<sup>24</sup>

### **Duplicative statements**

Continuing law requires both lobbyists and their employers to file disclosure statements with JLEC. However, an employer is not required to report an item if the employer’s lobbyist has done so. The bill adds an exception in the other direction, allowing a lobbyist to refrain from reporting an item if the lobbyist’s employer reports it. JLEC’s existing reporting system automatically carries over corresponding information between lobbyist and employer reports.<sup>25</sup>

### **Public access to lobbying information**

The bill updates the law that requires JLEC to allow public access to lobbying statements by explicitly requiring JLEC to publish them on its official website, which it currently does. Existing law requires JLEC to computerize the statements so that the information contained in them is readily accessible to the general public. Beginning January 1, 2025, the bill also requires the statements on JLEC’s website to include a link to the Secretary of State’s campaign finance database.

Additionally, the bill eliminates a requirement that JLEC distribute lists of registered lobbyists and employers to certain public officials, although JLEC must continue to compile that list twice each year and make it available to the public upon request. JLEC currently makes that information available on its website.

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<sup>23</sup> R.C. 101.73 and 121.63 and conforming change in R.C. 102.031(C)(2).

<sup>24</sup> R.C. 101.75, 101.95, and 121.65.

<sup>25</sup> R.C. 101.73, 101.93, and 121.63.

Finally, the bill eliminates a requirement that JLEC maintain a list of all executive agencies and make it available to the public upon request. Instead, the bill requires the OEC to do so.<sup>26</sup>

### **Lobbyist registration schedule**

Beginning January 1, 2024, the bill synchronizes the registration periods for executive agency and retirement system lobbyists with the current registration periods for legislative lobbyists. Under the bill, all lobbyist registrations expire on December 31 of an even-numbered year – that is, they are valid for a legislative biennium. Currently, executive agency and retirement system lobbyists' registrations expire on January 31 of the year following the year of registration, meaning that they must register annually.

The bill does not change the \$25 registration fees that all lobbyists must pay each registration period; those fees are deposited in JLEC's operating fund. Because the bill extends the validity of executive agency and retirement system lobbyists' registrations, it effectively reduces their registration fees by half so that they are the same as for legislative lobbyists.<sup>27</sup>

### **Elimination of General Assembly revolving door law**

The bill eliminates a provision of law that prohibited a former member or employee of the General Assembly, for one year after leaving office, from representing any person, other than a state agency or political subdivision, on any matter before the General Assembly or the Controlling Board. This law has not been enforced since it was ruled unconstitutional under the First Amendment in 2010.

The bill leaves in place revolving door provisions that restrict other former public officials and employees, which appear not to have been challenged.<sup>28</sup>

### **BCII enforcement assistance**

The bill specifies that the Bureau of Criminal Identification and Investigation (BCII) may assist the OEC and JLEC in investigating violations of the Ethics Law, upon request.<sup>29</sup>

### **Technical changes**

#### **Supreme Court Board of Professional Conduct**

The bill updates several references to the Supreme Court Board of Commissioners on Grievances and Discipline to refer to the Board of Professional Conduct, which is that entity's current name.<sup>30</sup>

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<sup>26</sup> R.C. 101.78, 101.98, 121.68, and 102.06(F). See also Joint Legislative Ethics Committee, [Ohio Lobbying Activity Center](#), available at [jlec-olig.state.oh.us](http://jlec-olig.state.oh.us) under "Lobbying."

<sup>27</sup> R.C. 101.92 and 121.62; Section 4 of the bill. See also R.C. 101.72, not in the bill.

<sup>28</sup> R.C. 102.03(A). See also *Brinkman v. Budish*, 692F.Supp.2d 855 (S.D. Ohio 2010).

<sup>29</sup> R.C. 109.54.

<sup>30</sup> R.C. 102.01, 102.02, 102.07, 102.08, 2701.11, 2925.01, 2925.38, and 4705.021.

## Changes for readability

The bill makes a number of wording and organizational changes to the Ethics and Lobbying Law in an effort to make the law easier to read, without changing the substance of the law. The bill:

- Changes division lettering and relocates language in order to improve organization;<sup>31</sup>
- Adds references in the list of officials who must file an FDS to include officials who are currently required to file under other sections of law, but are not mentioned in the main list of filers;<sup>32</sup>
- Creates a definition of “public official” in the law governing legislative lobbying in order to eliminate repetitive language listing the covered officials.<sup>33</sup>

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## HISTORY

Action	Date
Introduced	02-15-23

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<sup>31</sup> R.C. 101.73, 101.93, 121.63, 102.02, 102.022, and 102.07.

<sup>32</sup> R.C. 102.02(A). See also R.C. 122.651, 126.46, 184.01, and 2301.55.

<sup>33</sup> R.C. 101.70, 101.74, and 101.76.