

**IDENTIFICATION AND REGULATION  
OF LOBBYISTS IN VIRGINIA**

**REPORT OF  
THE VIRGINIA ADVISORY LEGISLATIVE COUNCIL  
to  
THE GOVERNOR  
and  
THE GENERAL ASSEMBLY OF VIRGINIA**



**HOUSE DOCUMENT NO. 15**

**COMMONWEALTH OF VIRGINIA  
Department of Purchases and Supply  
Richmond  
1964**



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REPORT OF  
THE VIRGINIA ADVISORY LEGISLATIVE COUNCIL

Richmond, Virginia, January 8, 1964.

To:

HONORABLE A. S. HARRISON, JR., *Governor of Virginia*

and

THE GENERAL ASSEMBLY OF VIRGINIA

In 1938 the General Assembly adopted legislation to require the registration of persons "employed to promote or oppose in any manner the passage" of legislation. By 1962, the number of registered "Legislative Agents" or "Legislative Counsel" had increased until they numbered more than the membership of the General Assembly itself. In addition a large number of unpaid representatives of organizations and groups seeking or opposing the adoption of legislation are constantly found in the State Capitol during the sessions of the Legislature; complaints have been registered that certain persons who under the statutes should have registered, disclose the name of their principals, and file a statement of compensation and expenses, did not do so. In addition, the swarms of lobbyists, whether or not required to be registered, have impeded the orderly conduct of the business of the session.

Feeling that it was time for a review of the 1938 legislation, the General Assembly adopted the following resolution, directing the study of the problem by the Virginia Advisory Legislative Council:

HOUSE JOINT RESOLUTION NO. 103

*Directing the Virginia Advisory Legislative Council to make a study and report concerning Chapter 2 of Title 30 of the Code of Virginia.*

Whereas, Chapter 2 of Title 30 of the Code of Virginia was adopted in 1938, and only one change of an administrative nature has been made therein since; and

Whereas, this is a criminal statute that is very broad in its terms, conditions have changed greatly since 1938, and frequent difficulties arise as to the extent of its application, which possibly should be clarified and made more certain; now, therefore, be it

Resolved by the House of Delegates, the Senate concurring, That the Virginia Advisory Legislative Council is hereby directed to make a study and report upon Chapter 2 of Title 30 of the Code of Virginia. The Council shall consider whether this statute should be made more specific, or needs any clarification, in view of present developments, and, if so, suggest changes therein. Among other things, the Council should consider whether the law should apply (a) only to those who appear in person before the Committees of the General Assembly or see the members thereof in Richmond during the session, and (b) who are owners of businesses or who are officers or full-time employees of some group,

corporation or association who may, incidental to their regular duties be, within the course of their employment, opposing or sponsoring legislation, or (c) only to those specifically employed for the purpose of sponsoring or opposing legislation, and (d) the time and place of registration for those required to do so, and (e) whether some more specific means of identification of those required to register should be had, and (f) whether or not there should be more restrictive provisions as to the activities of such registered agents. The Council shall consider the experience and statutes in other States relating to similar matters. The Council shall complete its study and make its report to the Governor and General Assembly not later than October one, nineteen hundred sixty-three.

Inasmuch as the members of the Council, through their service as members of the General Assembly, were familiar with the problems involved, the Council elected to consider this matter itself. It assembled data on lobbying laws in other states, it examined into the peculiar and particular problems in Virginia, and it held a public hearing at which opinions both of those engaged in lobbying and of the general public were sought.

The Council has given careful consideration to the matter, weighing the undoubted benefits to members of the General Assembly in securing information from persons especially versed in subjects being considered for legislation, the right of the citizens of Virginia to express themselves on matters being considered by the General Assembly of Virginia, and the desirability of (1) informing the members of the General Assembly as to the interests being promoted by those who are engaged in lobbying, (2) insuring the orderly procedure of the houses of the General Assembly when in session and (3) the protection of the members from conduct which, at times, has interfered with the efficient discharge of the duties incumbent upon them.

## CONCLUSIONS AND RECOMMENDATIONS

1. The Council has reached the conclusion that a continuation and strengthening of legislation regulating the activities of paid lobbyists is essential; changes in the law to provide more information concerning such lobbyists and their principals and to facilitate enforcement of the statute are in order.

2. The necessity for the orderly and efficient functioning of the houses of the General Assembly during the legislative day involves a consideration by each house of the need for better defined standards governing access to the floors of the two houses.

## REASONS FOR RECOMMENDATIONS

### 1. *Lobbying*

During the 1962 Regular Session of the General Assembly nearly 1,100 bills and numerous resolutions were introduced in and considered by the two houses. Of these bills, 644 were enacted into law, which meant that this number as well as many more which passed one house but were not adopted by the other had to be considered by each of the two bodies. Few members of the General Assembly, during a session can become familiar with the details of all legislation upon which they must act. This is especially true since some measures are of considerable length and com-

plexity and deal with subjects requiring highly specialized knowledge. The individual legislator must to a great extent be guided in forming his opinion on the wisdom of a given piece of legislation by the views of those who are immediately and directly concerned with its passage or who have had the opportunity to give special study to the measure and the need, if any, for it.

In weighing the testimony of persons appearing before committees of the General Assembly and of others advocating or opposing legislation, however, the member of the General Assembly is entitled to know the background of the advocate or opponent of the bill and especially, as to those who are not dealing with a subject in which they are personally interested, the principal whom the agent is representing.

Ezra Taft Benson, Secretary of Agriculture during the administration of President Eisenhower, had this to say concerning lobbyists: "At his best, the lobbyist is a most useful instrument of representative government. At his worst, he is everything the public believes him to be. There are far more leaning toward the former than toward the latter category."

We agree in general with this statement and in Virginia especially, lobbyists have proved in practice to be of assistance to members of the General Assembly in many fields. Nevertheless, in principle we believe in their identifying themselves and it is only fair to those who have complied with our statute that all lobbyists be required to do so. For this reason, we recommend amendment of the statute looking toward providing more information for the General Assembly and for the public and making it more susceptible of enforcement.

## *2. Access to the floors of the two houses.*

A major problem which the General Assembly confronts is the relatively small size of the chambers in which the respective bodies meet and the free access which has been allowed the public to the rear of the two chambers. This has made it extremely difficult for the sessions to be conducted with proper efficiency and decorum. We recognize the right of every citizen of Virginia to have access to those who represent them in the legislature. Nevertheless we must point out that if all citizens elected to exercise this right simultaneously, bedlam would result. Generally speaking, again, most of those seeking to confer with members of the General Assembly have realized the difficulties under which our legislature operates and have been most cooperative. But their very number has resulted in a situation which is definitely recognized to impair the efficiency of the legislative process.

Since the recent remodeling of the Capitol has made available to the membership of the two bodies additional space which can be used for conferring with members of the public, the time has come to consider rules which, if adopted, will reduce the congestion formerly prevailing on the floors of the houses. A draft of a rule is attached to accomplish this result, if adopted. In this connection we mention, especially as to members of the House, that the members of the General Assembly do not have offices at the Capitol in which to conduct their affairs. The volume of bills, mail and other communications coming to the members during the sessions is tremendous. Each member is forced to use his desk as the place to handle his correspondence. It is impractical for the member to attempt this when the floor is crowded by one and all when his house is not in actual session. The rule offered will keep the floor clear from

one hour before a scheduled session of either house until 5:00 P. M. (or a later time when such house is in actual session) in order for the members to dispose of their business. Most of the members arrange to meet with their constituents in other quarters in the Capitol; this will be greatly facilitated by the renovations which have been made. With the pages and other legislative employees, any member of the public can get word to his Senator or Delegate to meet him outside of the Chamber and, if circumstances require, they can then go to a private meeting place. This will work no hardship upon any citizen. Rather, it will facilitate the transaction of the public business. The members of the General Assembly are elected not only to represent their constituents but also the interests of the State at large. Arrangements such as we propose will redound to the benefit of the citizens and the State.

Some states have established office buildings for the sole and exclusive use of the members of their legislatures to which the public has only limited access. This is a drastic proposal as compared to the one which we suggest for consideration.

The work of legislative bodies is steadily increasing. The decorum and order which have marked the session of the General Assembly, but which are now threatened, deserve to be continued. Representative government must rest upon the election of capable officials and the provision of arrangements in which they can conduct the public business in a seemly manner.

Confusion and disorder in the halls of a legislative body are indicative of changes which we deplore. The plan herein set forth will preserve the best of what we have inherited and assure the future orderly conduct of the public's business. It will also remind the members of this legislative body of the great traditions which they represent and the responsibility which is theirs. A statute governing access to the floor would, of course, be inferior to a rule of a house of the General Assembly. Therefore we suggest that the matter be handled by rule. This has the additional merit of allowing each house to judge its own needs.

#### Conclusion

The people of Virginia deserve the best. We hope the measures which follow this report will assist in achieving that objective.

Respectfully submitted,

CHARLES K. HUTCHENS, Chairman  
 EDWARD E. WILLEY, Vice-Chairman  
 C. W. CLEATON  
 JOHN WARREN COOKE  
 JOHN H. DANIEL  
 CHARLES R. FENWICK  
 TOM FROST  
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 LEWIS A. McMURRAN, JR.  
 MOSBY G. PERROW, JR.  
 ARTHUR H. RICHARDSON



Baldwin G. Locher was not present when final action was taken on this report.

*A BILL to amend the Code of Virginia by adding in Title 30 thereof a chapter numbered 2.1 containing sections numbered 30-28.1 through 30-28.11, to regulate the employment of persons, and the activities of persons employed by others, in connection with promoting, advocating or opposing legislation before the General Assembly of Virginia; to provide penalties for violation of this act; and to repeal §§ 30-20 through 30-28 of the Code of Virginia, relating to the same matters.*

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia be amended by adding in Title 30 a chapter numbered 2.1 containing sections numbered 30-28.1 through 30-28.11, as follows:

#### Chapter 2.1

§ 30-28.1. When used in this chapter, unless the context requires a different meaning, the following terms shall have the meanings respectively set forth:

(a) "Person" includes an individual, firm, association, corporation, partnership or business trust; an officer, board, department, institution or agency of the Commonwealth of Virginia or employee thereof; but not an officer, board, department, institution or agency of any political subdivision of the State or employee thereof, or a political subdivision of the State.

(b) "Employer" means any person who has an individual lobbying for him for compensation or expenses.

(c) "Lobbying" means promoting, advocating or opposing any matter which may come, or is pending, before either House of the General Assembly or any committee thereof by an individual (i) who is an employee of a person whether his employment is for the purpose of lobbying or otherwise, or, (ii) who is employed or retained for such purpose, in whole or in part, and who appears on behalf of, or for, any other person for such purpose; provided that (i) shall not apply to appearances before a committee of either House or a joint committee thereof.

(d) "Lobbyist" means a person who engages in lobbying.

(e) "Promoting", "advocating" or "opposing" means any act, speech, communication or conduct within the Capitol Building on the part of a lobbyist which influences, or is intended to influence, a member of the General Assembly to vote or use his influence, for or against any matter which may come, or is pending, before either House of the General Assembly or any committee thereof while the General Assembly is in session.

(f) "Matter" means any law, bill, resolution, amendment or investigation which is, or may come, under the consideration of either House of the General Assembly or any committee thereof or member of the General Assembly.

(g) "Expenses" includes (i) moneys directly or indirectly paid, or to be paid, by the lobbyist in connection with lobbying; (ii) all moneys paid, or to be paid, by the employer of a lobbyist which moneys are used or are intended to be used to assist such lobbyist in his work and shall, without

excluding moneys expended for other purposes, include moneys expended to inform any person of the matter upon which the lobbyist is engaged as such or to have any other person communicate in any manner with any member of the General Assembly so as to assist the lobbyist in any matter upon which he may be engaged.

§ 30-28.2. No individual shall engage in lobbying until he registers with the Secretary of the Commonwealth and secures an identification card. Such application shall be made on forms provided by that office and contain the following information:

- (a) The full name of the applicant, his residence and business address.
- (b) The name, address and principal occupation of each person by whom the lobbyist is employed or retained. If the applicant is an employee of some person, the position held with such person shall be stated.
- (c) The name and address of the person who will keep the custody and control of the accounts and records required to be kept by § 30-28.5 and the location of such accounts and records.
- (d) ( ) The money paid or to be paid or the value of any other consideration given or to be given to the applicant, including expenses, whether or not he is on a periodic retainer; or
- (2) if the applicant is on a retainer which is his sole payment for lobbying, the amount of the retainer; or
- (3) if the applicant is on a retainer, under which he may receive additional compensation for lobbying, the total, including expenses, he may so receive; or if there be no limit on such payment, ten thousand dollars shall be presumed to be the amount of money received or to be received by the applicant for lobbying from each person by whom he is so employed; or
- (4) the annual salary and expenses of any applicant who lobbies for the person by whom he is employed.

§ 30-28.3. The Secretary of the Commonwealth shall immediately record in a legislative docket the information filed under § 30-28.2 and shall furnish current, complete lists thereof to the Clerk of each House and to each member of the General Assembly once each week during a regular or special session. The records required to be kept by this chapter shall be open to inspection during the regular business hours of the Secretary of the Commonwealth.

Whenever any change, modification or addition to his employment as a lobbyist is made, the lobbyist shall, within one week of such change, modification or addition, furnish full information regarding the same to the Secretary of the Commonwealth on forms provided by that office.

§ 30-28.4. (a) Upon the filing of an application in accordance with § 30-28.2, the Secretary of the Commonwealth shall issue to the applicant an identification card, which shall be presented by the lobbyist, if requested, at any time during a legislative session while the lobbyist is in the Capitol, whenever he approaches any member of the General Assembly, or appears before any committee thereof, on a legislative matter.

(b) The Secretary of the Commonwealth shall furnish a copy of this act to any person offering to register as a lobbyist and shall mail by certified mail a copy of this act and a copy of the information furnished by the applicant to the person whom the applicant represents to be his employer.

(c) If the person to whom the information is sent under paragraph (b) of this section does not, within ten days of such mailing, file an affidavit, signed by the person or duly authorized agent of the person, denying that the lobbyist appears on his behalf such person shall be deemed to have appointed the Secretary of the Commonwealth his agent for service of process in any prosecution arising for violation of this act. If such affidavit is filed, the Secretary of the Commonwealth shall proceed as set forth in § 30-28.9.

§ 30-28.5. Within thirty days after the adjournment sine die of a session of the General Assembly each lobbyist whose name appears in the legislative docket of the session, shall file with the Secretary of the Commonwealth:

(a) A complete and detailed statement, signed by the employer and sworn to before some officer authorized by law to take acknowledgments to deeds, showing all expenses, retainers and annual salaries paid or incurred in connection with lobbying by the person for whom such lobbyist is registered.

(b) A complete and detailed statement signed by the lobbyist and sworn to before some officer authorized by law to take acknowledgments to deeds, showing: (i) all expenses, retainers and annual salaries received by the lobbyist in connection with lobbying, and (ii) all expenses, retainers and annual salaries incurred or paid by the lobbyist in connection with lobbying.

Such statements shall be in the form prescribed by the Secretary of the Commonwealth and shall be open to public inspection during the regular business hours of that office.

§ 30-28.6. It shall be unlawful for any person to lobby for compensation which is dependent in any manner upon the passage or defeat of any proposed legislation or upon any other contingency connected with the action of the General Assembly, or of either House, or any committee or member thereof.

§ 30-28.7. Before the Secretary of the Commonwealth issues an identification card under § 30-28.4, he shall collect five dollars from the lobbyist as a fee for filing the statement herein required. Each such card shall become invalid after the adjournment sine die of the session for which it was issued. All money received as such fees shall be paid into the State treasury to the credit of the general fund.

§ 30-28.8. (a) No lobbyist shall:

(1) Lobby in violation of the provisions of this chapter.

(2) Make any payment of money or consideration of any kind, or obligate himself to do so, in connection with lobbying, unless he fully discloses the payment or obligation to the Secretary of the Commonwealth.

(3) Misrepresent in any material respect the information required to be reported to the Secretary of the Commonwealth.

(b) No employer shall:

(1) Fail to file any statement required to be filed by the provisions of this chapter.

(2) Misrepresent in any material respect the information required to be reported to the Secretary of the Commonwealth.

(3) Violate any of the provisions of this chapter.

Any employer or lobbyist violating any provision of this chapter shall be guilty of a misdemeanor and upon conviction shall be fined not less than five nor more than five hundred dollars, or be confined in jail not exceeding twelve months, or both.

30.28.9. The Secretary of the Commonwealth shall institute proceedings for the prosecution of any employer or lobbyist violating this chapter. Such prosecution may be had on motion of the Secretary of the Commonwealth and also upon written complaint of any member of the General Assembly directed to the Secretary of the Commonwealth, upon a memorandum from the House or Senate Rules Committee directed to the Secretary of the Commonwealth, or upon a resolution by any committee of either House of the General Assembly directed to the Secretary of the Commonwealth. Upon request of the Secretary of the Commonwealth, the Attorney General shall assist in the prosecution of all violations of this chapter.

If the violation of any provision of this chapter occurs it shall be deemed to have occurred in the Capitol Square and jurisdiction shall be had as provided in § 2-77 of the Code of Virginia.

§ 30-28.10. Nothing in this chapter shall be construed to abridge any constitutional right.

§ 30-28.11. Nothing in this chapter shall be construed to limit or in any other manner affect the provisions of § 18.1-283.

2. §§ 30-20 through 30-28 of the Code of Virginia are repealed.

*Suggested Addition to Rules of  
Senate and House of Delegates*

No person, other than members of the General Assembly and members of their families, officers and employees of State offices located in the Capitol, and, with the approval of the President of the Senate (Speaker), employees of other State agencies assigned by their agencies to perform duties for the General Assembly and designated representatives of the press and other news media, shall be permitted to go upon the floor of the Senate (House) while it is in session, except upon invitation of the Senate (House) or of the President (Speaker). The Clerk of the Senate (House of Delegates) shall prepare and furnish to the members of the General Assembly, the presiding officers of each house, and to each doorkeeper, a list of the persons, other than members and their families, who are to be permitted access to the floors of the two houses under this section.

For a period beginning one hour prior to the time of convening of the Senate (House) and continuing until 5:00 P. M. of the same day or the hour of adjournment, whichever is later, during the period of any regular or special session of the General Assembly on a day when the Senate (House) is in actual session but at a time when the Senate (House) is in adjournment or recess, no person not permitted access to the floor under this rule shall go upon the floor of the Senate (House) except upon the invitation of, or when accompanied by, a member of the General Assembly; provided that [\* this section shall not apply to persons entering the inner

door of the Senate chamber and going upon the floor of the Senate in uninterrupted passage to the office of the Lieutenant Governor or the Clerk of the Senate and leaving in the same manner and] this section shall not apply to the Senate (House) during the time when a public hearing is being conducted therein.

The Clerk of the Senate (House) shall arrange to have a copy hereof prominently displayed at the entrances to the floor of the Senate Chamber (Hall of the House of Delegates).

\* The matter in brackets would apply only to the Senate.

