



December 15, 2010

The Honorable President and Members
of the City Council of Baltimore
Fourth Floor, City Hall
Baltimore, Maryland 21202
Attn: Karen Randle, Executive Secretary

Re: Bill 10-615 {"Promoting Honesty in Lobbying"}

Dear Mr. President and Councilmembers:

You have asked the Ethics Board to review and comment on Council Bill 10-615 {"Promoting Honesty in Lobbying"}. Bill 10-615 proposes a number of changes to the lobbying provisions of the City Ethics Code (City Code Article 8, Subtitle 8). With two reservations, discussed below, the Board has no objections to the changes proposed by the bill.

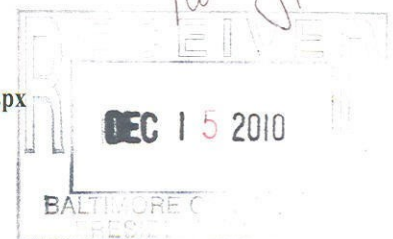
The first change is, as stated in the bill's title, to "expan[d] certain criteria for when a person is required to register as a legislative or executive lobbyist". Currently, the statute requires registration as a legislative lobbyist by anyone who, in conjunction with certain activities:

- "expends \$100 or more for gifts ... to 1 or more public servants", *or*
- "incurs expenses of \$500 or more" *or*
- "earns \$2,500 or more in compensation".

Bill 10-615 would repeal the latter two of these criteria and substitute in their stead:

- "is or expects to be compensated for his or her services" *or*
- "spends 20% or more of his or her time over a 6-month period on lobbying activities for an employer, client, or other person".¹

¹ The second of these new criteria would also be added to the provisions governing executive branch lobbying.



While somewhat far-reaching, these changes are not altogether unusual. Indeed, of this State's 7 largest political subdivisions, all but 1 have registration criteria that are *even more restrictive* than the City's current criteria. *Cf., e.g.*, the thresholds for legislative-lobbying registration for the following counties –

Anne Arundel County Code § 7-1-101(18) (*expends \$50 or more for gifts, etc.; incurs expenses of \$100 or more; or receives \$100 or more in compensation*).²

Baltimore County Code § 7-1-501(c) (*incurs expenses of \$100 or more; or receives \$500 or more in compensation*).

Harford County Code §§ 23-1(P) and 23-17(A) (*expends \$100 or more for gifts, etc.; incurs expenses of \$100 or more; or receives \$500 or more in compensation*).

Howard County Code § 22.202 (*expends \$100 or more for gifts, etc.; incurs expenses of \$500 or more; or receives \$500 or more in compensation*).

Montgomery County Code § 19A-21 (*incurs expenses of \$500 or more; or receives \$500 or more in compensation*).

Prince George's County Code § 2-295 (*expends \$200 or more for gifts, etc.; incurs expenses of \$200 or more; or receives \$1,000 or more in compensation*).³

Other changes proposed by Bill 10-615 are: (i) establishing a higher, statutory registration fee of \$100; (ii) clarifying and expanding on certain information to be included in a lobbyist's activity report; (iii) prohibiting a lobbyist from conveying a "a fictitious impression of the public's ...

² Italics indicate thresholds that are *lower* than the counterpart threshold in the City.

³ Even some of the State's smaller counties have thresholds for registration that are lower than the City's. *Cf., e.g.* –

Caroline County Code § 33-1 (*expends \$100 or more for gifts, etc.; incurs expenses of \$250 or more; or receives \$500 or more in compensation*).

Carroll County Code § 18-2 (*expends any amount on gifts; incurs expenses of any amount; or receives any compensation*).

Queen Anne's County Code § 8-6 (*expends \$100 or more for gifts, etc.; incurs expenses of \$500 or more; or receives \$500 or more in compensation*).

position” on some proposed action; and (iv) prohibiting a lobbyist from claiming that he or she “can control or obtain ... the vote or other action” of the Mayor, a Councilmember, or other City official or “the approval or disapproval” of some action.

As noted at the outset, the Ethics Board has two reservations. The first is the bill’s proposed deletion of the current registration requirement for one who “incurs expenses of \$500 or more”, irrespective of whether the individual is compensated. The proposed deletion might have been a drafting oversight. In any event, this is a standard (near universal) criterion in the State, and, the Ethics Board believes, it should be retained to remain true to the bill’s stated purpose of “expanding” registration requirements.⁴

The other reservation grows out of the years’-long reductions in the resources made available to the Ethics Board. This is not to say that the Ethics Board objects to Bill 10-615 or to any of the additional work that the bill might generate. To the contrary, if Bill 10-615 is enacted, the Ethics Board will do everything it can to implement the new mandates. Still, the Ethics Board feels constrained to observe how its limited staff (and its even more limited budget) prevents it from bringing its practices into the 21st Century – adopting and implementing, for example, “best practices” that would promote transparency, as envisioned by Bill 10-615 and other recent ethics legislation (e.g., keeping records in a searchable, electronic data base, posting lobbying registrations and reports online; providing comprehensive ethics education and training).

Very truly yours,



Avery Aisenstark

xc: The Honorable Bernard C. “Jack” Young
George Nilson, City Solicitor
Edward J. Gallagher, Finance Director
Ms. Angela Gibson
Chair and Members of Ethics Board

⁴ Indeed, this deletion would *narrow* our current registration requirements, exempting a whole class of lobbyists from scrutiny. A change like that is nowhere reflected in the bill’s title; as such, it might well fail to withstand legal scrutiny.