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22 Mill Creek Park, Frankfort, Kentucky 40601-9230
Phone: (502) 573-2863

Spending reports show increase in lobbyist compensation; decrease in employer spending on events



Spending reports filed by employers and legislative agents at the end of the most recent reporting period show that compensation paid to lobbyists has increased slightly since 2008, but there's been a decrease in employer and lobbyist spending on receptions and meals for legislators.

The recent reports, which are complete through the first eight months of 2009, show that 639 employers have spent an average total of \$1.25 million per month in compensation to their 629 registered lobbyists, compared to an average total of \$1.23 million per month in 2008.

A total of \$11.25 million was spent on lobbying in the first eight months of 2009, with \$10 million of that spent as compensation to lobbyists. The 2009 session lasted 29 days and the June special session lasted eight days and focused on the state budget, economic incentives for businesses, and transportation projects.

As an even-numbered year, 2008 included the longer 60-day legislative session, as well as a five-day special session focused on state pension issues. More than \$16.9 million was spent on lobbying last year, the most ever recorded for one year. That total includes \$14.7 million in lobbyist compensation, also a record, and more than twice the \$7.1 million that was spent 10 years before, in 1998.

So far in 2009, the 1268 employers and lobbyists have spent an average of \$16,868 per month on receptions and meals for groups of legislators. That's almost 30 percent lower than the average of \$23,630 per month which was spent in 2008. Additionally, employers and lobbyists have spent just \$34 on meals and beverages for individual legislators in 2009, compared to \$516 in 2008.

This summer, spending by lobbyists and employers on events at legislative conferences was also down from last year's totals. In 2008, a total of \$44,465 was spent on food, beverages, and other expenses for events for Kentucky legislators at the annual meetings of the National Conference of State Legislatures (NCSL), the Southern Legislative Conference (SLC), and the American Legislative Exchange Council (ALEC).

This year, the total spent on "Kentucky Night" events at the three conferences was \$33,893, a 24 percent drop from 2008. At NCSL in Philadelphia, 88 employers and 18 lobbyists joined together to spend \$16,216 on Kentucky legislators and guests attending an event, while 106 employers and 18 lobbyists spent \$10,926 on an event at SLC in Winston-Salem, N.C., and 68 employers and 13 lobbyists spent \$6,751 on the event for Kentucky legislators at ALEC's meeting in Atlanta.

Last year, lobbyists and employers spent \$15,631 on the event for Kentucky legislators at NCSL in New Orleans, \$15,578 on the Kentucky event at ALEC in Chicago, and \$13,250 on “Kentucky Night” at SLC’s meeting in Oklahoma City.

Businesses weigh in on climate change legislation in Congress



The debate in the U.S. Congress about energy, climate change, and reduction of greenhouse gas emissions has divided the business and lobbying community, and is causing some shifting of alliances.

Apple, Inc., the California-based manufacturer of consumer electronics and computer software, which employs seven lobbyists in Kentucky, recently resigned from the U.S. Chamber of Commerce, citing the Chamber’s criticism of plans to reduce U.S. greenhouse gas emissions.

Several other companies with Kentucky lobbyists have waded into the debate on energy and climate change legislation by joining major coalitions on either side of the issue.

For example, the **American Coalition for Clean Coal Energy (ACCCE)**, a partnership of industries involved in producing electricity from coal, opposes the legislation pending in Congress, and includes companies such as Alliance Coal, CSX Corp., E.ON U.S., GE Energy, Norfolk Southern Co., Peabody Energy Corp., all of which employ lobbyists in Kentucky.

On the other side is the **United States Climate Action Partnership (USCAP)**, a group of businesses and environmental organizations that supports legislation to require significant reductions of greenhouse gas emissions. USCAP includes Duke Energy, DuPont, Ford Motor Co., General Electric, Johnson & Johnson, and The Nature Conservancy, all registered in Kentucky as employers of lobbyists.

Other companies with Kentucky lobbyists belong to the **Business Environmental Leadership Council (BELC)**, whose website states it is “the largest U.S.-based association of corporations focused on addressing the challenges of climate change and supporting mandatory climate policy.”

Among the BELC members with Kentucky lobbyists are Bank of America, Citigroup, Duke Energy, General Electric, Hewlett-Packard, IBM, Johnson Controls, Novartis, Toyota, and Weyerhaeuser. Toyota is also a member of the U.S. Chamber of Commerce’s Board of Directors.

As with General Electric, Duke Energy was a member of ACCCE, USCAP, and BELC. However, last month, the North Carolina-based electric power company which employs 10 lobbyists in Kentucky, withdrew from ACCCE because it has “differences with influential member companies who will not support passing climate change legislation in 2009 or 2010,” according to NationalJournal.com. Six months ago, Duke Energy quit the National Association of Manufacturers for similar reasons.

NationalJournal.com reported that a representative of ACCCE said overlap between some groups isn’t surprising since they share “broad goals” such as bringing technology into the marketplace to reduce greenhouse gas emissions.

In early August, Stephen Miller, ACCCE’s President and CEO, who worked as campaign manager and staffer for former Kentucky Gov. Brereton Jones, issued a public apology after an ACCCE lobbying subcontractor sent falsified constituent letters to members of Congress.

According to the Charlottesville (Va.) Daily Progress, the D.C.-based lobbying firm sent the letters to congressional offices, advocating a "no" vote on the American Clean Energy and Security Act.

The forged letters were designed to appear as if written by members of nonprofit groups. They arrived before the House narrowly approved the energy bill on June 26. Miller apologized for what he called the "deception" and said he was "outraged" at the conduct of the lobbying firm, and that ACCCE is contemplating legal action.

More than half of filers use electronic filing



The initial opportunity for employers and lobbyists to file spending reports electronically was a success, as 1508 forms were filed online at the Legislative Ethics Commission's website <http://klec.ky.gov/>.

By the filing deadline, the Commission received a total of 2350 forms, so 64 percent of the forms were filed electronically.

From the Kentucky Bar Association:

KBA ETHICS ALERT – NEW RULE REQUIRES LAWYERS TO REPORT ETHICAL MISCONDUCT OF OTHER LAWYERS AND OF JUDGES

The Kentucky Rules of Professional Conduct have been amended and there are several major changes. Of particular importance is new Supreme Court Rule (SCR) 3.130(8.3), which requires a lawyer to report another lawyer who has "committed a violation of the Rules of Professional Conduct that raises a substantial question as to the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects." There is a similar reporting requirement for violations of the Code of Judicial Conduct. Exceptions exist for information protected by Rule 1.6 (confidentiality) or other law, and for information obtained as a result of participation in the Kentucky Lawyer Assistance Program or the Ethics Hotline.

The Supreme Court Commentary to SCR 3.130(8.3) explains that, as a self-regulated profession, lawyers must initiate disciplinary investigations when they know about the misconduct of others. The rule does not, however, require reporting of every possible circumstance where the lawyer thinks there might be a problem. The obligation to report is only triggered when a lawyer has actual knowledge of a violation; knowledge can be inferred from the circumstances. Moreover, the offense must be a serious one; it must involve the core values of the profession – honesty, trustworthiness and fitness.

The full text of the new Rules of Professional Conduct can be found on the KBA website, www.kybar.org, under "Ethics."

News You Can Use from State & Federal Communications

"Restrictions Put Dent in Congressional Travel"

Federal - Congressional Quarterly (www.cqpolitics.com) - Published: 9/17/2009

Lawmaker trips sponsored by outside groups have decreased by 56 percent since the ethics and lobbying overhaul law was enacted two years ago, according to a CQ MoneyLine study of congressional travel. Since then, more than 2,300 former sponsors of lawmaker trips, including many corporations, government contractors, and other groups that lobby, have stopped paying for such travel. Meanwhile, the average amount of money still spent on lawmaker-related travel by outside groups has dropped from \$250,000 a month to \$110,000 a month.

"This is a sign that the law is working as intended – it takes most of the influence peddling out of these trips," said Craig Holman of Public Citizen, one of the watchdog groups that pushed for tougher ethics restrictions on lawmakers and lobbyists. In all, former sponsors that no longer pay for trips spent nearly \$15 million on lawmaker-related travel between 2000 and 2007.

The law, which was enacted in 2007 in response to the Jack Abramoff lobbying scandal, was designed to prevent lobbyists and their clients from using trips to help push an agenda or influence specific legislation. But it did not eliminate all outside-sponsored trips, and many groups and institutions, such as universities and other educational organizations, are still allowed to sponsor fact-finding trips for members of Congress and their staffs.

Among the groups still funding a large number of member trips is the Aspen Institute, which leads every other organization with nearly \$1.1 million in travel expenditures since the changes were enacted. Also at the top of the list was the American Israel Education Foundation with \$488,000 spent and the International Management & Development Institute at \$100,000.

"Ex-Alaska Lawmaker Gets Six Months for Corruption"

Alaska - Anchorage Daily News - Published: 9/24/2009

A fifth former Alaska lawmaker has been sentenced to federal prison for corruption. Beverly Masek, who served in the state House for five terms, was sentenced to six months in a minimum security prison, followed by three years of probation. Terms of her release include treatment for an alcohol problem that she and others blamed, in part, for her actions.

Masek had earlier pleaded guilty to accepting \$4,000 in cash in 2003 from former Veco Corp. Chief Executive Officer Bill Allen. In exchange for part of the money, she hastily withdrew a bill Allen said would have hurt clients of the oil pipeline services company. She later sought additional money, consulting work with Veco, and funding to allow the former Iditarod Trail Sled Dog Race musher to restart her kennel. "Citizens must have faith that the officials they elect to represent their best interests will do so without the stain of bribery and corruption," said Assistant Attorney General Lanny Breuer.

A psychiatrist for the defense testified that in 2003, Masek had financial problems after getting divorced, suffered from depression, and had both an alcohol dependence and a passive, dependent personality. Dr. Aron Wolf said Masek was drinking so heavily in 2003 that she "had days she didn't know what happened."

U.S. District Court Judge Ralph Beistline at times chastised Masek for breaking the law but also expressed hope she could rehabilitate. The judge said part of the problem, however, was that there has been a decade of stumbles for Masek, including "disturbing the neighborhood with drunken tirades" as little as two weeks ago. Beistline said Masek should pay the price of her crime, work on rehabilitation, and set about rebuilding her life.

Veco was an Anchorage-based multinational company that performed maintenance, construction, and design work for oil companies before it was sold in 2007. The sale happened after Allen and a company vice president, Rick Smith, pleaded guilty to bribing Alaska politicians. They are awaiting sentencing. Allen has testified in the trials of other lawmakers that he pushed legislation favorable to the petroleum industry. Veco stood to gain millions of dollars in contracts if additional oil wells were developed or a natural gas pipeline from the North Slope to the Lower 48 was built.

Prosecutors said in April 2003, Masek told an aide to find Smith so she could discuss her financial difficulties. Two days later, they said she met a relative of Smith's and deposited \$2,000 in her bank account. In May, she introduced a bill that sought to repeal the existing oil tax structure, a method favorable to petroleum companies. But days later, Allen and another former lawmaker met with Masek to explain she had to withdraw the bill because it would be harmful to Veco's clients, and she did. Prosecutors said Allen gave her \$2,000 the next day.

"California Legal Counsel Rules against Duvall Inquiry"

California - San Jose Mercury News - Published: 10/2/2009

The California Legislature's attorneys told lawmakers they do not have the authority to investigate a former Assembly member who resigned amid a sex scandal. At least one law enforcement agency, however, is determining if there was any criminal violation by former Assemblyperson Mike Duvall. The FBI has questioned two of Duvall's former Assembly aides in Sacramento, said agency spokesperson Steve Dupre. He could not say if agents have questioned the two female lobbyists who Duvall identified as his mistresses. Dupre also would not say if the FBI has opened a formal investigation.

Speaker Karen Bass had called for an ethics inquiry by the Assembly after Duvall was caught on videotape boasting about his sexual escapades with two lobbyists. The decision by the Legislative Counsel Bureau seeking to end that inquiry was disclosed in letter sent to Bass. Deputy Legislative Council Fred Messerer said the state constitution only allows ethics investigations of current members of the Legislature. In addition, state prosecutors have no plans to investigate whether any laws were broken by Duvall.

"Even if the publicly reported behavior is proven to be true, it would not constitute a violation of California law," said Scott Gerber, a spokesperson for state Attorney General Jerry Brown. "Accordingly, unless additional information comes to light, our office intends no further inquiry."

Duvall, a married father of two, has said his only offense "was engaging in inappropriate storytelling." He said resigned so he would not distract the Legislature. Duvall was recorded during a break in July committee hearing detailing his alleged extramarital exploits to Assemblyperson Jeff Miller. Duvall was apparently unaware his microphone was on and can be heard on the tape describing in lurid detail his sexual conquests, including carrying on two affairs simultaneously.

One of the women reportedly works for Sempra Energy, a San Diego-based energy services company that had business before a committee on which Duvall served. Sempra spokesperson Art Larson said the employee has denied involvement with Duvall and would "cooperate with any authorities who decide to investigate." Larson would not say whether the employee or anyone else at Sempra has been contacted by law enforcement.

The Assembly Ethics Committee was charged by Bass to investigate Duvall's comments, in part, to determine whether the affair might have influenced his votes. Retired FBI agent Jim Wedick, who was involved in the agency's undercover sting known as "Shrimpscam," which sent several California legislators to federal prison in the 1990s, said the information made public in the Duvall scandal so far justifies queries by federal authorities. "It's smoke that should be looked at to see if there is any fire," said Wedick.

"Florida Judge Nixes Part of Sansom Indictment"

Florida - Miami Herald - Published: 10/5/2009

A judge left what a prosecutor called just the crumbs of official misconduct and perjury charges against Florida Rep. Ray Sansom by dismissing key parts of the indictment. Sansom's lawyer said the ruling will make it much harder for prosecutors to succeed in their case against the onetime House speaker and two co-defendants on the official misconduct charge. A perjury charge against one of them was also dismissed. State Attorney Willie Meggs said he would ask the attorney general's office to appeal the ruling. That likely would delay the trial now set for October 26.

The felony charges stemmed from Sansom's efforts as House budget chairperson to steer \$6 million to Northwest Florida State College for a building more than 10 miles away at the Destin Airport. The school then gave Sansom a \$110,000 job on the same day last November when he was sworn in as speaker. Sansom was accused, in part, of falsifying the state budget by quietly inserting a provision that said the \$6 million would go to build an "Emergency Response Workforce Center" used jointly by the college and local governments instead of its true purpose – a hangar for a private business.

The grand jury alleged Sansom had schemed with former Northwest Florida State College President Bob Richburg and businessperson Jay Odom, both charged with aiding and abetting the lawmaker, to lease the hangar to Odom's aircraft business, Destin Jet. Odom is a friend and political supporter of Sansom. Circuit Court Judge Terry Lewis ruled no law, including the annual budget act, can be falsified.

"A law, by its nature, is what it says it is," wrote Lewis. "It cannot be made false by the fraud, misrepresentation, or other trickery of one or more of its members, which may have misled other members into voting for it."

Lewis refused to dismiss allegations that the defendants falsified a joint-use note also alleged in the misconduct charge. He said he was not presented with enough information to rule on that document.

The judge ruled Sansom can be tried on allegations he lied to the grand jury that indicted him by telling the panel the college had asked for the \$6 million project. Sansom cannot be prosecuted for denying the building was designed as a hangar because that is a matter of opinion, not fact, wrote Lewis.

The judge also dismissed a perjury charge against Richburg. He had been accused of lying to the grand jury when he testified the building was not designed as a hangar and by allegedly telling the panel there was never any intention or discussion after the law was passed to lease it to Odom. The design issue was a matter of opinion while evidence shows Richburg, contrary to the allegation, had acknowledged to the grand jury there were discussions with Odom about his desire to lease the building as a hangar, wrote Lewis.

Sansom resigned from the college job shortly after he got it and gave up his speakership before the regular legislative session began in March. He remains in the Legislature, but a special House committee is investigating and could recommend his ouster. Sansom has asked it to delay action until the criminal case is resolved. Official misconduct and perjury are third-degree felonies, each with a maximum penalty of five years in prison and a \$5,000 fine.

"Court Refuses to Consider Lobbyist Law Challenge"

Florida - Miami Herald; Associated Press - Published: 10/5/2009

The U.S. Supreme Court has decided not to hear a challenge to Florida's strict lobbying law. The state banned lobbyists from giving gifts to legislators and other elected officials. It also required them to file disclosure statements saying who pays them and how much. If a Florida lobbyist does not comply or someone complains, lawmakers can investigate and punish lobbyists with up to a two-year suspension and a \$5,000 fine.

Lobbyists challenged the law in court, saying that requiring them to disclose their employers violated privacy and equal protection rights guaranteed by the U.S. Constitution. The 11th U.S. Circuit Court of Appeals in Atlanta ruled against them, and the Supreme Court refused to consider an appeal of that ruling.

"State Rep. Ty Harrell Resigns"

North Carolina - Raleigh News & Observer - Published: 9/20/2009

North Carolina Rep. Ty Harrell, who has been under investigation over his campaign expenditures, submitted his resignation. Harrell said he needs to focus attention on answering questions about his campaign finances and on his young sons, as he and his wife are in the midst of divorce proceedings.

"The people of District 41, and all citizens of North Carolina, deserve representatives who can make clearly-focused decisions on their behalf," Harrell wrote in a letter to House Speaker Joe Hackney. "With the recent turbulence in my personal life and continued speculation about my campaign expenditures, I do not feel that I can provide the high standard of representation that my constituents expect and deserve."

Hackney asked the Legislative Ethics Committee to investigate Harrell's finances on September 9, after the State Board of Elections began an audit of campaign expenses. Harrell's campaign expense report for January through June of this year showed an unusual number of expenses for a year with no election. Many of the expenses were to restaurants at a time when Harrell had no source of income other than his nearly \$14,000 legislative salary.

In an earlier report, Harrell listed paying \$235 to an expensive children's clothing store and \$191 to Sharon Luggage, with both identified as a "committee meeting." The descriptions of other expenses often were listed as "donor recruitment," "strategy meeting," or other explanations that the elections board found insufficient. The board's staff has since asked for more than 200 pieces of additional information on Harrell's filings, an unusually large request.

Harrell has been living outside his district for more than a month at a friend's house. His wife filed for divorce in July.