

# SOUTH DAKOTA

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## LOBBYING DISCLOSURE

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**These resources are current as of 8/18/14. We do our best to periodically update these resources and welcome any comments or questions regarding new developments in the law. Please email us at [advocacy@afj.org](mailto:advocacy@afj.org).**

This guide summarizes key aspects of laws and regulations governing lobbying on the state level. It is not intended to provide legal advice or to serve as a substitute for legal advice

In some jurisdictions, city and/or county regulations may also apply to certain political activities. Check with the appropriate local jurisdiction before undertaking any activity.

### DEFINITIONS

- Lobbyist – South Dakota does not define the term “lobbyist.” However, it may be understood to mean any person employed to seek the introduction of legislation or to promote, oppose, or influence in any manner the passage by the Legislature of any legislation affecting the special interests of any agency, individual, association, or business, as distinct from those of the whole people of the state.
- Lobbying – employment that includes promoting, opposing, or influencing in any manner the passage of any legislation by the state legislature affecting the special interests of any agency, individual, association, or business, as distinct from those of the whole people of the state. No case law, administrative rules, or attorney general opinions provide insight defining a “special interest” as distinct from an interest affecting everyone in the state. Acts by unpaid volunteers do not constitute lobbying.
  - Lobbying also includes “to act in any manner as a lobbyist in connection with any such legislation.”

S.D.C.L. § 2-12-1.

- Individuals testifying on their own behalf – who are not paid to lobby on behalf of another – do not need to register as a lobbyist if they appear as a witness before a legislative committee or any other government panel to speak in their own name, in their own or in the public interest. SDCL § 2-12-14.
- Grassroots Lobbying – South Dakota does not draw distinctions between “grassroots” and “direct” lobbying. A person who is paid to influence legislation is lobbying, whether they do so by talking to legislators or by organizing constituents to call the legislators.

Additionally, South Dakota’s campaign finance rules regulate certain grassroots lobbying communications. If an organization spends \$100 or more for a communication that clearly identifies a candidate or public office holder, but does not expressly advocate the election or defeat of the candidate or public office holder, and that is disseminated, broadcast, or otherwise published, the organization must report the payment to the Secretary of State within 48 hours. Historically the payment was required to have been made within the 60-day window before the election to trigger reporting, but the legislature removed this 60-day window in 2013.<sup>1</sup> Disclosure is not required for communications that refer to any candidate only as part of the popular name of a bill or statute.

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## REGISTRATION

- Registration with the Secretary of State is required by:
  - Lobbyists; and
  - Any person, corporation or organization that employs someone to act as a lobbyist, or that employs someone to promote, oppose or influence legislation “affecting any special interest ... as distinct form [the interests] of the whole people of the state.
  - Lobbyists can either register by mail or online. Registration forms for lobbyists registering by mail are available [online](#) or lobbyists may complete the same registration form [electronically](#).
- On the registration form, lobbyists and lobbyist-employers must list:
  - The lobbyist’s name, residential address and occupation;
  - The lobbyist-employer’s name and business address;
  - The date the employment began;
  - The length of time the employment will continue, if it has an ending date; and
  - The topics on which the lobbyist has been employed to lobby.

S.D.C.L. § 2-12-2.
- Amendments – As additional subjects of legislation are introduced or arise which the lobbyist is hired to promote or oppose, the lobbyist-employer must notify the Secretary of State. S.D.C.L. § 2-12-5. Most lobbyists

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<sup>1</sup> The application of these rules to true grassroots lobbying communications may be subject to legal review. Organizations concerned about complying with this requirement for true grassroots lobbying communications may consider consulting with legal counsel or contacting the Secretary of State for guidance.

provide generic statement on their original registration form, e.g., “Any bill affecting [insert client’s name].”

- Registration Fee – Each lobbyist must pay a \$40 annual registration fee for every employer whom the lobbyist represents. S.D.C.L. §2-12-3, [SDR 5:04:07:01](#). The legislature has authorized a registration fee of up to \$65, so the Secretary of State could amend its regulations to establish a higher fee.
- Authorization – Employers must provide their lobbyists with a signed authorization to lobby on behalf of the employer. Within 10 days of registration, the lobbyist must file a copy of the authorization with the Secretary of State. S.D.C.L. §2-12-4. The authorization form is available for download [online](#).

### Lobbyist Directory

- Registered lobbyists and lobbyist-employers are listed in a searchable on-line directory, available at (<https://sos.sd.gov/Lobbyist/LRPublicAccess.aspx>) (

### Badges Required

- Every lobbyist must wear a badge visible at all times when engaged in lobbying within the capitol complex. The badge is provided by the Secretary of State upon payment of the \$40 registration fee. The badge bears the word “lobbyist,” the lobbyist’s name, and the identity of the principal on behalf of whom the lobbyist has registered. S.D.C.L. § 2-12-8.1. Lobbyists that register online can order a replacement badge online. SDR § 5:04:07:02.

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## REPORTING

- By July 1 of each year, every registered lobbyist and registered lobbyist-employer must file a report with the Secretary of State detailing all costs incurred for the purpose of influencing legislation.
  - Reporting forms may be [filed electronically](#). Additionally, lobbyists and lobbyist employers may download [traditional paper forms](#). Lobbyist expense data is viewable online.
  - The compensation employers pay to lobbyists is not reportable.
  - Lobbyists need not disclose their personal expenses, e.g., their own meals, travel, lodging, phone calls or other necessary personal needs while in attendance at the legislative session.
- Filers must swear to the contents of the report in the presence of a notary public.

S.D.C.L. § 2-12-11.

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## TERMINATION

- If a lobbyist’s employment as such ends prior to the legislature session’s adjournment, either the employer or the lobbyist must, upon termination of the employment, file an amendment to the registration, indicating the termination. S.D.C.L. § 2-12-1.

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## LOBBYING RESTRICTIONS

- Lobbying by Former Officials – Elected officials and officials confirmed by the state senate must not act or register as a lobbyist, other than a public employee lobbyist, for one year after leaving government service. S.D.C.L. § 2-12-8.2.
- Gift Limits – No person may offer gifts to influence a legislator to introduce, support, or oppose legislation. S.D.C.L. § 2-12-9.
- Restrictions on State and Federal Agents and Employees – An agent of the state or federal government may register as a public lobbyist and influence legislation as long as the legislation does not affect the lobbyist's personal financial interests. S.D.C.L. § 2-12-10.
- Lobbying on the Floor While in Session – Lobbyists may not go onto the floor of either house of the Legislature while the Legislature is in session, except upon the invitation of that house. S.D.C.L. § 2-12-8.
- Contingent Compensation – Lobbyists may not be paid on a contingency basis. S.D.C.L. § 2-12-6.

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## PENALTIES

- Violation of the laws regarding lobbyists' badges or lobbying on the floor while the Legislature is in session is a petty offense.
- Lobbying by a state official within one year of leaving office is a Class One misdemeanor.
- Bribing a legislator is a Class One misdemeanor.
- The South Dakota attorney general or state's attorney of the county where the violation is alleged to have been committed must bring prosecutions for lobbying violations. SDCL § 2-12-12.
- A lobbyist convicted for violating any provision within SDCL § 2-12 is disbarred from acting as a lobbyist for three years following the date of conviction. SDCL § 2-12-12.

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## CONTACT INFORMATION FOR STATE AND LOCAL AGENCIES

Secretary of State  
Capitol Building  
500 East Capitol Avenue Ste 204  
Pierre SD 57501-5070

Lobbyist Registration  
Telephone: 605-773-3537  
605-773-6580  
Email: [Lobbyist@state.sd.us](mailto:Lobbyist@state.sd.us)

For more information and forms regarding lobbyist registration, go to  
<http://www.sdsos.gov/adminservices/lobbyistreg.shtm>.

## **FOR FURTHER ASSISTANCE**

**For assistance regarding these resources or for more information about federal law, please contact our attorney one-on-one counseling service:**

**Email: [Advocacy@afj.org](mailto:Advocacy@afj.org)  
Telephone: 1-866-NPLOBBY  
(675-6229)**

**For assistance regarding state law in South Dakota, please contact:**

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