

# State Law Resources

## Texas: Lobbying Disclosure

### Disclosure

*These resources are current as of 12/31/20. 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).*

#### WHAT'S IN THIS GUIDE

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, county, or special district regulations may also apply to certain political activities. Check with the appropriate local jurisdiction before undertaking any activity.

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# Definitions

## What is lobbying? What activities are excluded?

The definition of lobbying in Texas is direct communication with a member of the state legislative or executive branch to influence legislation or administrative action, if the communication meets statutory expenditure or compensation levels ([see below](#)), and does not fit within any exception. ([TEX. GOVT. CODE § 305.003](#)).

Direct communication with an official may be in person, by telephone, by telegraph, letter, fax, e-mail or other electronic means of communication ([TEX. GOVT. CODE § 305.002\(2\)](#)). It includes “preparation for direct communication” like strategy sessions, and development of materials ultimately used to lobby ([1 TEX. ADMIN. CODE §§ 34.1, 34.3](#)). “Other electronic means of communication” can include social media if the communication is narrowly addressed towards a public figure.

The fact that a communication does not include a discussion of specific legislation or administrative action does not mean that the discussion is not a lobby communication. If a communication is intended to generate or maintain goodwill for the purpose of influencing potential future legislation or administrative action, the communication is a lobby communication. ([TEX. GOVT. CODE § 305.002\(2-a\)](#)).

The following activities and persons do not trigger lobbyist registration and reporting requirements:

1. Media support or opposition to legislation or administrative action;
2. Testimony at a legislative or administrative hearing if no special or extra compensation is received by person testifying;
3. Persons who encourage members, employees, or stockholders of their business entity or association to communicate with officials to influence legislation or administrative action;
4. Persons who pay lobbyists, but do not lobby themselves;
5. Persons who attend meetings with public officials if the meeting is paid for by business, union or association, including persons who are paid for time off to attend such meetings; and
6. Any person who communicates to legislators or the executive branch on behalf of a political party whose total expenditures and compensation combined do not exceed \$9,320 per year. ([TEX. GOVT. CODE § 305.004, 1 TEX. ADMIN. CODE § 34.5](#)).

7. Incidental lobbyist – an individual whose lobbying activities constitute no more than [40 hours](#) of his/her compensated time during a calendar quarter. Incidental lobbyists must register, however, if their expenditures for lobbying meet the statutory threshold (currently \$810 per calendar quarter). ([TEX. GOVT. CODE § 305.003\(b-3\)](#), [1 TEX. ADMIN. CODE § 34.43](#)).

**NOTE:** These exceptions apply only to the extent that the person does not otherwise meet the requirements to register as a lobbyist. So, if the only activity a person has with the legislature is testifying at an open hearing, that will not in and of itself require registration as a lobbyist. But if a person meets the requirements to register in other ways (spending a certain amount on lobby expenditures or being paid to lobby) these exceptions will not negate the registration requirement.

**NOTE:** Lobbying at the municipal, county, and district level is not covered by state law. However, these activities might trigger registration and/or reporting requirements at the municipal, county, or district level.

## What is grassroots lobbying? What activities are excluded?

Under federal tax law, grassroots lobbying includes communications with the general public that express a view on specific legislation and contain a call to action (e.g. an encouragement that the reader / listener reach out to a legislator in support of a bill). Grassroots lobbying is not defined under Texas law, and grassroots activities generally are not regulated as lobbying in the state. Despite this fact, expenditures by a lobbyist for advertising to support or oppose legislation or administrative action must be reported by a lobbyist, and legislative advertising paid for by others must carry a disclaimer even if paid for by a non-lobbyist. ([TEX. GOVT. CODE §§ 305.006\(c\), 305.027](#), [1 TEX. ADMIN. CODE §26.3](#)).

## Who is considered a lobbyist?

A lobbyist is a person who expends \$810 or more in a calendar quarter or who is paid or reimbursed \$1,620 or more in a calendar quarter (including salaried individuals) to communicate directly with a member of the legislative or executive branch to influence legislation or administrative action. The statutory thresholds are subject to modification by the Texas Ethics Commission. ([TEX. GOVT. CODE § 305.003](#); [1 TEX. ADMIN. CODE §§ 34.41, 34.43](#)).

# Registration

## Must lobbyists register?

Yes. ([TEX. GOVT. CODE § 305.003](#)). Individuals must [register online](#) with the Texas Ethics Commission.

Annual registration fees and registration renewal fees are as follows:

- \$150 for a registrant only employed/compensated by a 501(c)(3), 501(c)(4), or 501(c)(6) organization;
- \$750 for any other registrant. ([TEX. GOVT. CODE § 305.005\(c\)](#)).

## What types of activities trigger registration?

Direct communication (in person or by telephone, telegraph, letter, fax, electronic mail, or other electronic means of communication) with a member of the legislative or executive branch to influence legislation or administrative action, provided expenditure or compensation thresholds are met and no exception applies.

## Only direct lobbying?

Yes. But legislative advertising paid for by a lobbyist must also be reported to the Texas Ethics Commission. ([TEX. GOVT. CODE § 305.006\(c\)](#)).

## Does grassroots lobbying count toward the threshold for registration?

No. Nor do expenditures by a lobbyist for legislative advertising.

## What advisory opinions or guidance shed light on legislative advertising?

[TEC Ethics Advisory Opinion No. 188 \(1994\)](#).

## Is there a threshold amount beyond which lobbyists must register?

Yes. \$810 in covered expenditures in a calendar quarter or \$1,620 in compensation or reimbursement in a calendar quarter. ([TEX. GOVT. CODE §305.003](#); 1 TEX. ADMIN. CODE §§ 34.41, [34.43](#)).

## Are there exceptions to these thresholds?

Yes. Compensation received to do any of the following activities does not count against the \$1,620 compensation threshold:

1. Requesting a written opinion that interprets a law or regulation
2. Preparation or submission of an application or providing information which responds to a request by a state agency
3. Communicating to demonstrate compliance with an audit, inspection or investigation
4. Communicating to demonstrate compliance with existing laws, rules, policies or procedures
5. Providing facts or data per written request by a legislator or executive branch members
6. Communicating to an agency's legal counsel or administrative law judge concerning litigation or adjudicative proceeding.
7. Providing public testimony or written testimony at a hearing
8. Providing clerical assistance to a lobbyist

[TEX. GOV. CODE §305.004](#), [1 TEX. ADMIN. CODE § 34.5](#)

**NOTE:** These specific exceptions only apply to the compensation threshold for registering as a lobbyist. So, if you are paid by an organization to do a number of different things, and some of them including lobbying, these specific exceptions apply only to the extent that being paid to do them does not count against the overall compensation threshold of \$1,620 per quarter before you must register as a lobbyist.

As an example - if you are the CEO of a nonprofit and you engage in no other activity that would fall under the definition of lobbying, then merely showing up to testify at an open hearing will not require a detailed analysis of how much you were paid by the nonprofit as CEO for the time spent testifying since it will not count against the \$1,620 per quarter that triggers lobbyist registration.

## Who must register?

### INDIVIDUAL STAFF MEMBERS?

Yes, if the staff member makes expenditures or is compensated to lobby within the statutory threshold for direct lobby activities; but, see "[incidental lobbyist](#)" exception discussed above.

### ORGANIZATION THAT EMPLOYS STAFF WHO LOBBY?

Yes, unless the organization's personnel involved in lobbying register individually and report all lobby activity on behalf of the entity. ([1 TEX. ADMIN. CODE §§34.45, 34.65, 34.85](#)).

## ORGANIZATION THAT HIRES A CONSULTANT AS LOBBYIST?

No, but the relationship must be disclosed by the lobbyist in registration and disclosure filings.

## What does registration entail?

- Filing of the lobby registration form with the Texas Ethics Commission within five days of first making a direct communication with a member of the legislative or executive branch that requires registration.
- Payment of \$150 (nonprofit), or \$750 fee (other lobbyists) to Texas Ethics Commission.
- Identification of persons represented and subject matter (legislation/administrative action) lobbied on, and identification of persons assisting lobbyist in direct communications.
- Compensation to be paid to the lobbyist, by bracket (“less than \$18,630” up to “over \$931,500”). If compensation is over \$931,500, it must be reported as an exact amount.
  - This includes compensation for all lobbying activity and compensation for all services, lobbying or otherwise, if the compensation for those services is paid with funds from political contributions (from a candidate or political committee). [TEX. GOVT. CODE § 305.005\(m\)](#)
- For entities represented, you must include corporate or association information, including:
  - Names of policymakers and description of policy-making methods,
  - Persons contributing \$250 or more per year (unincorporated entity only),
  - Number of shareholders/members
  - Names of corporate officers and directors, and
  - Names of persons with 10% or more ownership (non-publicly traded corporation only).

([TEX. GOVT. CODE § 305.005](#); [1 TEX. ADMIN. CODE §§ 34.41, 34.43, 34.45, 34.63, 34.69](#)).

## UPDATING REGISTRATION

A registrant who has changed in client or subject matter during a regular legislative session must file an amended registration no later than five days after making the first lobbying communication related to the new client or subject matter. ([TEX. GOVT. CODE §305.005\(k\)](#)).

## **Must lobbyists wear a distinctive badge?**

No badge is required, but a lobbyist may not enter the floor of the House or Senate chamber unless invited by the legislative body (House or Senate itself, not a particular member) ([TEX. GOVT. CODE § 305.023](#)).

## **Are organizations that conduct grassroots lobbying required to register?**

Not unless they satisfy the other lobbying requirements. But disclaimer requirements may apply if groups make expenditures for legislative advertising. ([TEX. GOVT. CODE § 305.027](#)).

## **Is there a time period when lobbying (direct or grassroots) activity is restricted?**

No.

# Reporting

## Must lobbyists report?

Yes. Verified reports must be filed with Texas Ethics Commission ([TEX. GOVT. CODE § 305.006](#); [1 TEX. ADMIN. CODE §§ 34.15, 34.91](#)). Reports must be [filed online](#) unless exempted under 1 TEX. ADMIN. CODE § 34.91.

## What is the schedule?

Once per month, between 1st and 10th day of month. ([TEX. GOVT. CODE § 305.007](#)). There is a semiannual reporting option for registrants who commit to spend less than \$1,860 per year in lobby expenditures. ([TEX. GOVT. CODE § 305.0063](#); [1 TEX. ADMIN. CODE § 34.81](#)).

## What information must be reported?

Total expenditures made, by category, to communicate directly with a member of legislative or executive branch to influence legislation or administrative action, whether by registrant or by persons acting on registrant's behalf. Categories include transportation and lodging, food and beverages, entertainment, gifts, awards and mementos and political fundraisers and charity events.

1. Itemization of expenditures to communicate directly with officials lobbied, including identity of official "recipient" and official's immediate family or guests, if present when expenditure made, place and date of expenditure, and amount expended, by bracket (less than \$100 to \$500).
2. Expenditures made by lobbyist or persons acting on his behalf for advertisements, direct mailings or mass communications to the public supporting, or opposing legislation or administrative action ("legislative advertising").
3. Subject matter of legislation or administrative action lobbied on, including agency docket number, if known. Subject matter "menu" available on form. (All above found in [TEX. GOVT. CODE § 305.006](#)).
4. See also certain disclosure requirements included in original lobby registration, not all of which are required in periodic reports, including compensation paid to lobbyist. (Registration; [TEX. GOVT. CODE §§ 305.005\(f\), \(g\), \(h\), \(i\), \(j\), \(k\)](#)).

The report must also include the total expenditures that are directly attributable to members of the legislative and executive branch. If expenditures are under the detailed reporting threshold (see below), then the report must only list the aggregate amounts expended by the lobbyist for each individual office. ([TEX. GOVT. CODE § 305.0062](#)).

If an expenditure is for an event to which all legislators have been invited, the report does not need to individually list each legislative office as benefitting from the expenditure. ([TEX. GOVT. CODE § 305.0062\(d\)](#)).

## **Are grassroots lobbying activities reportable?**

In general, no. Grassroots lobbying activities are not reportable if made by persons not otherwise required to register as lobbyists. Legislative advertising paid for by lobbyist must be disclosed on lobbyist's reports. ([TEX. GOVT. CODE § 305.006\(c\)](#)).

## **Are communications to members exempted?**

Yes. Expenditures by member organizations or nonprofit corporations to communicate with their own members about legislation or administrative action is not a lobbying expenditure, is not reportable, and requires no disclaimer as "legislative advertising." ([TEX. GOVT. CODE § 305.004\(3\)](#)).

## **Are contributors disclosed?**

No. Unless the corporation/nonprofit has a political action committee, contributors or members of the organization are not disclosed or reported to the Texas Ethics Commission. If there is a political action committee operated by the organization, then yes, all contributors to the political committee must be disclosed separately of any lobbyist registration.

# Lobbying Restrictions

Activity	Regulated by State? (Y/N)*	Statutory Citation
<b>Lobbying by Former Officials</b>	<b>Yes.</b> Applies to former State Agency Officials and to legislators.	<a href="#">TEX. GOVT. CODE §§ 572.054</a> , 305.029
<b>Limits on Lobbyists' Gifts to Officials</b>	<b>Yes.</b> Dollar limits apply.	<a href="#">Tex. GOVT. CODE §§ 305.024</a> , 305.025
<b>Hospitality Provided to Officials</b>	<b>Yes.</b> If by a lobbyist. Also, gifts and honorariums to public officials from any source are separately regulated by the Texas Penal Code In most cases, the lobbyist must be present if paying for hospitality.*	Chapter 36, TEX. PENAL CODE. TEX GOVT. CODE §§305.024(a)
<b>Trips Organized by Lobbyists</b>	<b>Yes.</b> Allowed only if related to a legislator's official duties.	<a href="#">Tex. GOVT. CODE §§ 305.024(a)</a> , <a href="#">305.025(3)</a>
<b>Other?</b>	<ol style="list-style-type: none"> <li>1. Contingent fee lobbying is prohibited.</li> <li>2. Lobbying by political subdivision using public funds is prohibited unless the person is registered as a lobbyist.</li> <li>3. False communication by a lobbyist for the purpose of influencing official action is a criminal offense.</li> </ol>	<ol style="list-style-type: none"> <li>1. <a href="#">TEX. GOVT. CODE § 305.022</a>,</li> <li>2. TEX. GOVT. CODE § 305.026,</li> <li>3. <a href="#">TEX. GOVT. CODE § 305.021</a></li> </ol>

There are no special lobbying rules or exceptions applicable to nonprofits.

\* As mentioned above, lobbyists must report their expenditures in six pre-defined categories. If the expenditure is for either transportation/lodging, food/beverages, entertainment, or attendance of members of the legislative or executive branch to attend political fundraisers or charity events, there is specific presence requirement. ([TEX. GOVT. CODE § 305.006\(f\)](#))

The presence requirement states that the lobbyist him/herself or a person in a position of authority in the entity which is represented by the lobbyist must be present when

providing food, beverage, or entertainment. ([1 TEX ADMIN CODE § 34.17](#))

Realistically, the presence requirement is most often triggered when lobbyists pay for lunch for a legislative office or drinks for a legislator after hours. In effect, this rule prohibits lobbyists from merely providing their credit card information, and instead requires the lobbyist to be present during the lunch or drinks.

The one exception to this rule is that food or beverages (eg, gift baskets) can be paid for and sent to legislators without the lobbyist being required to be present during the consumption of the food or beverage, only if the value is \$90 or less, it is intended as a gift, and it is delivered by first-class US mail or other common carrier outside the Capitol Complex. ([TEX. GOV. CODE § 305.0061\(e-1\)](#))

## Detailed Reporting

If a lobbyist spends more than \$132.60 per day per office on transportation and lodging for an office or on food and beverage for an office, the lobbyist must do a detailed reporting of that expenditure. ([TEX. GOV. CODE § 305.0061](#))

- The threshold amount for spending (currently, \$132.60) is 60% of the amount of legislative per diem
  - The legislative per diem can be changed by rule by the Texas Ethics Commission. Currently, the Texas Ethics Commission has the legislative per diem set at \$221, so the detailed reporting threshold amount is \$132.60 per day per legislative/executive office. ([1 TEX ADMIN CODE § 50.1](#))
- Note that according to the definitions in the law, an employee of the legislative branch constitutes the legislative office. This means that every instance in the code and rules that applies to a legislative office is triggered even if the expenditure only directly benefits a staff member of that office. ([TEX. GOV. CODE § 305.002](#))

The detailed report must include the name of each person in attendance, the place and date of the expenditure, the amount of the expenditure attributable to each person, and the purpose of the expenditure (transportation expenditures only). If it is impossible to reasonably determine the amount that is directly attributable to each person, the report should apportion the total by the number of people in attendance. ([TEX. GOV. CODE § 305.0061\(f\)](#))

# Penalties

## Criminal Penalties

- Bribery is a second degree felony, punishable by imprisonment of no more than twenty years and no less than two years. Additionally, a fine not to exceed \$10,000 may be imposed. (TEX. PENAL CODE § 36.02)
- Violation of the prohibition against contingent fees for lobbying under [TEX. GOVT. CODE § 305.022](#) is a third degree felony, punishable by imprisonment of no more than ten years and no less than two years. Additionally, a fine not to exceed \$10,000 may be imposed. (TEX. GOVT. CODE § 305.031)
- Any other intentional or knowing violation of a provision of the lobby law, or of one of the Penal Code prohibitions against accepting or offering a benefit, is a Class A misdemeanor, punishable by a jail term of up to one year, a fine not to exceed \$4,000, or both.

An allegation that someone has violated a provision of the Penal Code, or any other criminal offense, is investigated and prosecuted under criminal laws by a district or county attorney.

## Sworn Complaints

An individual who believes a person has violated a provision of the lobby law or the Ethics Commission's rules may file a sworn complaint with the Ethics Commission. The Ethics Commission may assess a civil penalty against a person it determines has violated the lobby law. Possible civil sanctions include:

- denial, suspension, or revocation of the lobby registration of a person convicted of a criminal offense under Chapter 36 of the Penal Code or under the lobby law; and
- assessment by the Ethics Commission of a civil penalty in an amount up to \$5,000 or triple the amount at issue, whichever is greater, if the Ethics Commission finds that a person has violated the lobby law.

The Ethics Commission does not have authority to impose civil penalties for violations of Penal Code provisions.

## Civil Penalties

A lobbyist who fails to file a registration form or activities report is subject to a civil penalty in an amount determined by Commission rule, but not to exceed an amount equal to three times the compensation, reimbursement, or expenditure. (TEX. GOVT. CODE § 305.032)

A lobby registrant who fails to file a report by the applicable deadline is subject to a \$500 late-filing penalty, with additional fines assessed for each day that the report is not filed, up to a maximum of \$10,000. Fines paid to the Ethics Commission are deposited into the state's general revenue fund. (TEX. GOVT. CODE § 305.033.)

# Contact Information for State and Local Agencies

## Texas Ethics Commission

Anne Temple Peters, Executive Director  
P.O. Box 12070  
Austin, Texas 78711-2070

201 East 14th Street  
10th Floor  
Austin, Texas 78701  
512-463-5800

[Website](#)

[Lobbyist Information](#)

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## 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)

James E. Cousar, Thompson & Knight LLP, prepared the first edition of the Texas Lobbying state law resource published by the Alliance for Justice in 2014. This edition was revised and updated in 2020 by Andrew Cates, Cates Legal Group, PLLC.