

PRACTICAL GUIDANCE

What Nonprofits Need to Know About Lobbying in

TEXAS

Inside This Guide:

This Practical Guidance resource is designed to help your nonprofit organization determine if lobbying rules in Texas might apply to your state or local work. It includes:

- Summary of registration and reporting triggers
- Key takeaways for nonprofit organizations
- FAQs
- Case study for a hypothetical small student voting rights organization
- List of helpful additional resources

What Lobbying Activities Trigger Registration Requirements in Texas?

DIRECT LOBBYING OF:	CAN THIS TRIGGER?	TRIGGER
State Legislators	Yes	<p>When an individual or organization meets either one of these thresholds:</p> <p>Compensation Threshold (usually applies to individuals): Compensated more than \$1,640 in a quarter prorated for direct communications lobbying AND time spent lobbying is more than 40 hours in the quarter.</p> <ul style="list-style-type: none"> Includes lobbying preparation time, but registration will not be triggered if no direct communication is ever made. Technically this trigger also includes reimbursements, but only for expenditures for the benefit of public officials (for example, meals or gifts given to officials). <p>Expenditure Threshold (usually applies to organizations): More than \$820 in any calendar quarter on lobbying expenditures.</p> <ul style="list-style-type: none"> Only expenditures made for the benefit of public officials count for this registration threshold. Staffing, office, and advertising expenditures do not count for this purpose. <p>**Threshold amounts are 2022 figures and are adjusted annually in January by the state.**</p>
State Executive Branch Officials	Yes	Same as above, with legislative and executive branch activities counted together.
Local Legislators or Local Executive Branch Officials	Maybe	There is no state requirement to register or report on lobbying activities directed at local public officials. However, most major cities in Texas have their own lobbying regulations. In cities where there are no local lobbying ordinances, Ch. 36 of the Penal Code (bribery) regulates local lobbying.

KEY LOBBYING TAKEAWAYS FOR NONPROFIT ADVOCACY ORGANIZATIONS IN TEXAS:

- **Grassroots lobbying:** There are no registration requirements for grassroots lobbying in Texas. However, if your organization or your staff are required to register, certain mass media expenditures for grassroots lobbying (including paid social media) will then be reportable.
- **Legislative advertising disclaimers:** Even if you are not required to register your lobbying work, certain legislative advertising (for example, ad buys or print pieces that support, oppose, or propose specific action on the part of the legislature) done through a paid vendor must contain disclaimer language. See FAQs below for more details.

This resource is current as of September 2022. We do our best to periodically update our resources and welcome any comments or questions regarding new developments in the law. Please e-mail us at advocacy@afj.com or at info@democracycapacity.org with any comments.

This resource is meant to convey the basic principles of sections of state law that are most relevant for nonprofit advocacy and does not cover all aspects or all details of the state statutes. Please refer to the full text of the law for more details. This resource also does not cover details of federal lobbying disclosure law, IRS regulations related to lobbying, or any separate county or municipal regulations that may apply to lobbying-related activities. In some states there is an ongoing movement towards the enactment of additional local county and municipal level lobbying regulations, and organizations are urged to check with the appropriate local jurisdiction before undertaking local lobbying activity.

Q: How should we think about using this Practical Guidance resource?

This Practical Guidance – What Nonprofits Need to Know About Lobbying resource is designed to help your nonprofit organization determine if state or local regulations might apply to your existing or proposed advocacy work. The answer is surprisingly often – **YES!** – but there are also often many advocacy activities that do not require state lobbyist registration or reporting.

This Guide will help you identify which of your state or local activities might trigger registration and reporting, and also give you potential alternative program design ideas where registration might not be triggered. It is often possible to design effective advocacy programming that is in full compliance with all state and local rules but does not require you to register and report.

If you do need to register and report with the state, this Guide will also give you practical tips about what information needs to be included in your reports, and how to try to minimize your operational burden while remaining in compliance with the rules.

While this Guide does provide some information about the federal IRS rules that apply to nonprofit lobbying, it is designed to cover state and local regulations. Links to resources containing more information about federal IRS rules can be found in the federal lobbying FAQ below.

We also hope that this Guide will prove useful to legal counsel and other advocacy advisors who are working to assist nonprofit advocacy organizations, as well as the funders who generously support this work. Advisors and funders are invited to use the free Bolder Advocacy Technical Assistance Hotline and the written legal resources available in the Bolder Advocacy resource library at <https://bolderadvocacy.org/>

Q: What activities count as lobbying in Texas?

In Texas, lobbying means **direct communication** with a **member of the state legislature** or **executive branch** for the purposes of influencing **legislative or administrative action** or to **build goodwill** with such officials for later conversations designed to influence legislative or executive branch action. The key terms are described in more detail below and have quite broad meanings that you'll need to become familiar with in order to recognize the kinds of activities that may count towards the registration trigger.

- **Direct communication** is contact in person or by telephone, fax, telegraph, letter, email, or other electronic means of communication. The communication must be directed at one or more members of the legislature or executive branch (as defined below, which includes staff). A newsletter for your own members, for example, is not a “direct communication,” even if legislators read it. On the other hand, social media can be a direct communication with a member of the legislature or executive branch via “electronic means of communication” if addressed specifically to a public official.
- **Member of the state legislature** includes a member, member-elect, candidate for, officer, or employee of the legislature or a legislative committee.
- **Member of the executive branch** includes an officer, officer-elect, candidate for, or employee of any state agency, department, or office in the executive branch of state government.
- **Legislative action** means any matter that is or could be the subject of action by either house of the legislature or any legislative committee, including bills, resolutions, amendments, nominations, and matters pending in a constitutional convention.
- **Administrative action** means any matter that may be subject to action by a state agency or the executive branch, including rulemaking, licensing, and procurement.
- **Building goodwill** means a direct communication intended to “generate or maintain goodwill” for the purposes of influencing “potential future” legislation or administrative

action. This means that your communications need not include a discussion of specific legislative or administrative action for them to potentially count as lobbying communications.

Q: What triggers lobbyist registration and reporting with the state?

In Texas, your employee or consultant staff, and potentially also your organization, will need to register as lobbyists with the Texas Ethics Commission (the “Commission”) if their work goes over either one of two lobbyist registration thresholds – the **“Compensation and Reimbursement Threshold”** or the **“Expenditure Threshold.”**

As outlined below, the details of these thresholds are quite technical, but the bottom line is if you don’t spend funds directly for the benefit of public officials (for example, by taking them out for drinks or dinner) then you will only need to worry about checking the Compensation and Reimbursement Threshold for your staff. If your organization can effectively pursue your advocacy work while keeping each staff person under the registration trigger threshold each quarter, then neither your staff nor your organization will need to register and report your lobbying activities to the State.

Compensation and Reimbursement Threshold

- **For individuals:** Compensated more than \$1,640 in a quarter (prorated for direct communications lobbying and preparation) **AND** the time the individual spent lobbying (or preparing to lobby) is more than 40 hours in the quarter.
 - The calculation includes lobbying preparation time, but registration will not be triggered if no direct communication is ever made.
 - Clerical-type assistance work is not counted.
 - For the 40 hours calculation, no more than eight hours are required to be counted in any one-day period. For example, if a staff member worked 10 hours each day on four different days in a quarter on direct lobbying communication or preparing to directly communicate, the total hours for that quarter would only be 32 (i.e., 4x8), not 40 (i.e., 4x10).
 - Technically this trigger also includes “reimbursement” to individuals, but only for expenditures made **for the benefit of public officials** (see list below) not the personal or office expenses of your lobbyist (e.g., travel costs to lobby). If your lobbyists are not spending money on public officials this trigger should not apply.
- **For organizations:** In the context of a nonprofit, this Compensation and Reimbursement trigger generally will not apply since your organization is likely not being compensated or reimbursed for lobbying.

Expenditure Threshold

If your organization is not making any expenditures for the benefit of public officials, then you will not trigger the Expenditure Threshold. Your organization’s staffing costs, personal lobbying expenses of your lobbying staff (e.g., travel or lodging in connection with lobbying), office expenses, and advertising expenses do not count towards the Expenditure Threshold.

- **Individuals:** When an individual spends more than \$820 in a calendar quarter for expenditures **for the benefit of public officials** that are **not** being reimbursed by your organization.
- **Organizations:** Incurring more than \$820 in a calendar quarter in lobbying expenditures **for the benefit public officials** in the below categories:
 - Transportation and lodging
 - Food and beverages
 - Entertainment
 - Gifts

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- Awards and mementos
- Attendance at a political fundraiser (if allowed under your tax-exempt status) or a charity event

Note also that the threshold dollar amounts are subject to change annually. The threshold amounts in this version of the Guide are for 2022.

Q: Are there exceptions to what counts as lobbying?

Yes! Certain types of lobbying activities are not counted **towards the state-level lobbyist registration trigger**, but once a person is already registered, then compensation for working on some of these activities may be reportable.

The exceptions most relevant to nonprofit organizations are:

- Testifying at a legislative or administrative hearing if no special or extra compensation is given for the appearance (other than actual expenses incurred to appear)
- Providing information consisting of facts or data requested by a public official
- Merely attending an event paid for by another organization where public officials are invited and in attendance
- Communications regarding a product or service to be purchased from your organization by a state agency, so long as the purchasing decision is under \$10 million
- Communications made while serving on an advisory committee or task force appointed by a member of the legislature or executive branch, or made as a member of a board, advisory committee, or task force on which a member of the legislative or executive branch also serves
- Providing clerical assistance to others who are lobbying

Q: How does this work together with federal IRS lobbying regulations?

All tax-exempt organizations must follow both federal tax law (as interpreted and administered by the IRS) **and** any state and local lobbying laws that apply to their work.

The federal and state rules have different purposes. The IRS rules regulate how much lobbying a nonprofit organization can do, while state and local regulations are transparency rules designed to help the public understand what funds are being spent to influence decision making and by whom. As a result, federal tax law rules related to lobbying and state lobbying regulations are quite different, and state lobbying regulations also vary greatly state to state.

In general, the IRS requires 501(c)(3) organizations to report on their annual Form 990 legislative lobbying at the federal, state, and local levels, but does not require the reporting of lobbying advocacy activities relating to executive branch or administrative officials at any level. There is no additional requirement for organizations or individuals to “register” with the IRS to report lobbying activities.

Nonprofits that are public charities under IRS exemption 501(c)(3), including grantmaking public charities like community foundations, can lobby within the generous limits allowed by federal tax law. The amount of lobbying is determined by either using the insubstantial part test or the 501(h) expenditure test. See Bolder Advocacy’s guide here: <https://bolderadvocacy.org/resource/public-charities-can-lobby-guidelines-for-501c3-public-charities-2/>

Organizations that are tax-exempt under 501(c)(4) (social welfare organizations), 501(c)(5) (labor organizations), and 501(c)(6) (trade associations) can do unlimited lobbying. See Bolder Advocacy’s guide here: <https://bolderadvocacy.org/resource/being-a-player-a-guide-to-the-irs-lobbying-regulations-for-advocacy-charities/>

Your organization will need to ensure that you are keeping track of your lobbying staff time and your expenses in a way that works for both your IRS reporting, and for any

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required state or local reporting, since the information required in each regime will be different.

Note that there is also a federal law called the Lobbying Disclosure Act that requires some organizations to register and report their federal level lobbying activities. Organizations that have only occasional contacts at the federal level (having occasional meetings with members or staff or sending occasional letters to Congress) will not need to register under the LDA. The thresholds are designed to require only those organizations with sustained lobbying activities and expenses to register. For more information see Bolder Advocacy's guide here: https://bolderadvocacy.org/wp-content/uploads/2018/06/Understanding_the_Lobbying_Disclosure_Act.pdf

Q: Does supporting or opposing a ballot measure count as lobbying?

Supporting or opposing a Texas ballot measure once it is on the ballot is not regulated as a lobbying activity under Texas law (even though the IRS does count it as a lobbying activity). Instead, Texas regulates activity to support or oppose a ballot measure already on the ballot under the state's campaign finance laws.

Note, however, that the Texas legislature must make a legislative decision to place constitutional amendments on the ballot, and hence time spent lobbying legislative officials for or against such constitutional amendment ballot measure placement legislation would be considered lobbying.

Advertising supporting or opposing a ballot measure is regulated as political advertising.

Nonprofit organizations considering working on ballot measures in Texas (either working to get a measure on the ballot or supporting or opposing an existing measure) should seek additional advice on how to comply with any applicable state or local campaign finance reporting and political advertising requirements.

Q: If we are required to register, how does the process work?

If your staff or your organization has gone over either the Compensation and Reimbursement Threshold or the Expenditure Threshold the appropriate registration(s) must be completed within five days.

SIMPLIFYING ASSUMPTIONS

For simplification purposes, in the remainder of this Guide we are going to make several assumptions when outlining the details of the registration and reporting forms. For organizations where these assumptions do not apply, please seek additional detailed information using the Additional Resources section on the last page of this Guide.

- **No expenditures made on public officials:** We assume that your organization is not making expenditures **for the benefit of public officials**. The reporting requirements for such spending are quite complicated, and unless you have good reason to pursue such activities, it is usually much easier to simply steer clear of them.
- **Your own staff is lobbying only for your organization:** We assume in discussing the forms that your staff who carry out lobbying activities are your employees and are not doing lobbying work for any other organization during the same period they are working for you.
- **You intend to use paid advertising:** We assume that you will use paid advertising and will likely need to report your mass media communications costs (including paid social media boosts or advertising) if your registration requirement is triggered.
- **You will register both your organization and at least one staff lobbyist:** We suggest registering both your organization and any of your staff that exceed the Compensation Threshold. Because you are not spending anything for the benefit of public officials, each of your registering staff will be able to file a single annual report, and your organization can file your mass media expenditures reports on the organization's "Regular" (monthly) schedule (see below).

- **Organizational control of all lobbyist filings:** We also assume that you will designate a single responsible point person in your organization to coordinate all of your lobbyist filings and make sure that everything is coordinated, reviewed, and submitted on time.

THE REGISTRATION PROCESS

Requesting a Filer ID: To begin the registration process, you will need to complete two forms to obtain a Filer ID for the online registration and reporting system for each of your staff that you need to register as well as for your organization if you are separately registering.

- Form FILER ID REQ-LOBBY: Use organizational contact information for this form since this information will be made public.
- Form SECURITY-LOBBY: Use this form for providing an e-mail address for the Commission to send back the Filer ID numbers you will need to complete each required registration online.

Both of these forms are available at: <https://www.ethics.state.tx.us/forms/lobby/> and should be returned via e-mail to formsecurity@ethics.state.tx.us. Keep your Filer IDs in a safe place once you receive them as you'll need them in order to file both your registration statements and your periodic reports.

Online lobbyist registration: All lobbyists with access to the internet are required to register and report online (as opposed to filing paper or pdf forms).

You can preview the information required and the instructions for filling out the online Lobby Registration Form REG at: <https://www.ethics.state.tx.us/forms/lobby/>

We've added some practical guidance below about some of the sections that can be a bit confusing for nonprofit organizations registering for the first time.

- **Filling out the Cover Sheet for the Form REG:** The first part of the registration form is called the "Cover Sheet."
 - **Section 1:** Asks you to detail how many Schedule A's and Schedule B's you are submitting. When registering a staff member of your nonprofit organization lobbying only for your organization you will only need to submit one Schedule A relating to your organization. You may or may not need to fill out any Schedule B's, which relate to non-clerical staff who assist your registered lobbyist in their lobbying activities but have not yet triggered a registration themselves. For example, a staff person who works around 20 hours a quarter doing research for your registered lobbyist would require reporting on a Schedule B. Staff that support registered lobbyists in a clerical capacity do not need to be listed on a Schedule B. For further guidance see the sections on how to complete Schedule A and Schedule B below.
 - **Section 2:** Nonprofits can check "Non-Profit" to obtain the discounted registration fee of \$150. Your organization must either appear in the IRS' Master File of exempt organizations listed at: <https://www.irs.gov/charities-non-profits/exempt-organizations-business-master-file-extract-eo-bmf> or you can alternatively provide your IRS tax-exemption letter to the Commission if you can't find your organization in the Master File.
 - **Section 3:** For staff, assuming your organization is not making any expenditures for the benefit of public officials, you can assume \$0 in annual expenditures, and select "Modified" annual reporting due once a year on January 10. For your organizational registration, if you are making paid advertising expenditures, you may not be able to stay within the \$1,890 annual expenditure cap (which for this purpose **includes** mass media communication spend). (Note also that this threshold adjusts annually on January 1 in accordance with the percentage increase for the previous year in the Consumer Price Index.) If this is the case, choose "Regular" monthly reporting for your organization. Note that if you do think you will be able to stay under \$1,890, then another option available to you is to report your organizational mass media spend on

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- one of your staff annual reports, and then you would not need to separately register your organization.
- **Sections 4 through 9:** For your staff registrations, provide your lobbyist's complete name, type of business (you can just list "nonprofit"), business mailing addresses, and business phone number. For your organizational registration (referred to as an "entity") registration, you must check off "Yes" where asked, and provide your organization's full business name.
 - **Section 10:** The answer for nonprofits will be NO.
 - **Section 11:** This section only applies if your lobbying work is being funded from a political contribution. This should never apply in the case of a 501(c)(3) nonprofit due to IRS rules requiring such organizations to remain strictly nonpartisan. For other types of nonprofit organizations, this situation should generally only apply if you are receiving funds for lobbying from a PAC, and you should consider consulting an attorney for further advice.
 - **Section 12:** This section applies to lobbyists who must register under the Foreign Agents Registration Act. This will not usually apply to nonprofit organizations lobbying on their own behalf.
 - **Section 13:** You must choose one or more of 84 subject matter categories which describe the policy areas in which you expect to be lobbying (e.g., "housing"). There is no penalty for checking a category that you end up not lobbying on, so it's better to be overinclusive than underinclusive. Fill out the Section 13 question re Docket Numbers if applicable to your work.
 - **Section 14:** You will complete the Cover Sheet by completing an affirmation and electronic signature.
 - **Completing Schedule A – Employer/Client:** As discussed above, a separate Schedule A must be completed for each client a lobbyist is working for. In the case of staff working only for your organization, they will need only one Schedule A outlining their lobbying work for you. For filing an organizational registration, you do not have to complete Schedule A.
 - **Part 1 – Section 1:** List the number of pages in your completed Schedule A.
 - **Part 1 – Section 2:** The "Registrant" will be the individual staff person registering.
 - **Part 1 – Section 3:** Your organization will be listed here as "Employer/Client" in the case of employee or consultant staff working only for your organization.
 - **Part 1 – Section 4:** This is your organizational address.
 - **Part 2 – Section 1:** The simplest way to handle this compensation question for registering most nonprofit staff is to make a good faith estimate of the **prorated** compensation that the staff person is likely to receive in the remainder of the calendar year for direct communication lobbying or the work preparing to do such direct communications, and then checking the "Prospective" box in **Part 2 – Section 2**. This method will prevent you from needing to go back and amend the compensation portion of the registration statement each period!
 - **Part 2 – Section 3:** This only applies to lobbying firms, so employees of nonprofit organizations should leave this blank.
 - **Part 3:** If your organization is incorporated you would check "ENTITY" in Section 1, "YES" in Section 2, "NO" in Section 3 (since nonprofits do not have any shares and are not publicly traded), and then skip to Part 4. You do not need to complete Part 3(b) because as an incorporated nonprofit you have no shares and no owners. If you are an unincorporated organization, you would check "NO" in Section 2 and complete Part 3(a).
 - **Part 3(a):** You only need to fill out Part 3(a) if you are an unincorporated association.

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- **Part 3(b):** Nonprofit lobbyists can skip this Part as it applies only to for-profit corporations.
- **Part 4:** Identify here the policy areas you are lobbying in. It is the same list as you completed in the Cover Sheet and there is an option to check off “All Matters Marked on Cover Sheet” instead of checking off all of the same categories again. If there are docket numbers or other administrative designations of the matters that are subject of your lobbying efforts, you will also list them in this Part 4.
- **Part 5:** is only for lobbyists who have a state agency **as a client** so should not apply to nonprofit organizations.
- **Completing Schedule B - Assistant:** A separate Schedule B must be completed for each non-clerical person who assists your registered lobbyists in your lobbying efforts but does not cross one of the registration thresholds. For each such “Assistant,” complete their name, business address, and occupation (use their job title) and check off the subject matter categories for which the Assistant worked on. For example, if a member of your staff spent only a few hours helping prepare a lobby communication you would record that in a Schedule B attachment for that staff person. Record-keeping for completing this Schedule will also help you track whether an Assistant has crossed a registration threshold, and thus must then separately register as a lobbyist.

Renewing, amending, or terminating your registrations. You can log in to the Commission dashboard using your Filer ID number to renew, amend, or terminate any of your registrations. Registrations expire automatically on December 31. If you want to terminate before then, you must complete a Termination Notice and file a final Lobby Activities Report.

If any information required on your registration form(s) changes during the calendar year, you must amend the registration by filing a Lobby Registration Amendment showing the changed information by the 10th day of the month following the month in which the information changed. For example, if your organization moves into a new office with a different business address in April you will need to file Lobby Registration Amendments with the new information by May 10th.

Q: When are periodic lobbying reports due?

In Texas, periodic lobbyist reports are called “Lobby Activities Reports.”

- **“Modified” staff lobbyist annual reports:** If when you registered you requested the Modified annual reporting option for your registered staff then those annual reports are due on January 10.
- **Monthly reporting for your organization:** If you are making regular paid advertising expenditures your organization may spend more than the \$1,890 annual expenditure limit (in 2022) for Modified annual reporting (for this purpose mass media communications expenditures are **included** in the calculation) you may need to file on a “Regular” monthly reporting schedule. Monthly Lobby Activities Reports must be filed online with the Commission each month between the 1st and 10th day of the month.

The minimum late fee for either the Modified annual or the Regular monthly Lobby Activities Reports is \$500, so you should make sure you have good systems in place to keep track of the deadlines. This is another good reason for your organization to have one point person coordinating all of your filing responsibilities and deadlines. If you do find yourself needing to file late or correct a report, you can use the following forms:

- Within 14 days of missing a filing deadline or discovering an error you can file a “Corrected Form LA and Good-Faith Affidavit”

https://www.ethics.state.tx.us/data/forms/lobby/2cor_la.pdf

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- After 14 days you can request a waiver or reduction of any late filing penalty by submitting a “Statement of Defense.”
https://www.ethics.state.tx.us/data/forms/affd/e_Statement_of_Defense.pdf

Q: What information do the periodic lobbying reports include?

Texas Lobby Activities Reports require updated reporting of the subject matter you have lobbied, your mass media expenditures, any expenditures you made **for the benefit of public officials** that you lobbied or planned to lobby, and categorization of the expenditures across the types of public officials the expenditures were made on. Assuming you are not making these expenditures for the benefit of public officials, this section will report \$0, and you will not need to categorize such expenditures.

You are **not** required to disclose on your Lobby Activities Reports any other kinds of lobbying expenditures, such as staff costs, office expenses, or other lobbying costs such as staff travel expenses to lobby.

Q: What is considered a reportable “expenditure”?

As discussed above, there is a difference between registration triggering expenditures and reportable lobbying expenditures. Reportable lobbying expenditures include both the expenditures made for the benefit of public officials, and also include mass media expenditures.

- **Mass media expenditures** are expenditures made on broadcast or print advertisements, direct mailings, and other mass media communications) including social media boosts and paid social media ads) for the purpose of supporting or opposing (or encouraging others to support or oppose) pending legislation or administrative action. This means that if you are required to register, some of your spending on grassroots lobbying may be reportable, even though such expenditures do not count towards the trigger threshold to register in the first place.

Note that all mass media expenditures that also fit the definition of legislative advertising need to have a special disclaimer attached, even if you do not need to register as a lobbyist. See the FAQ on legislative advertising disclaimers below.

Also note, that for organizations that can do partisan work (remember that 501(c)(3)s are strictly prohibited from partisan work!) there are other special rules in Texas relating to political advertising that you will need to follow, even if you do not need to register as a lobbyist. See <https://www.ethics.state.tx.us/resources/advertising/>

- **Expenditures made for the benefit of public officials** include:

- Transportation and lodging
- Food and beverages
- Entertainment
- Gifts
- Awards and mementos
- Attendance at a political fundraiser (if allowed under your tax-exempt status) or a charity event

Note that only the expenditures that are directly beneficial to the public officials or their staff (or families) are reportable under this section. You do not need to report here any expenses in these categories that were for the benefit of your organization or your own staff.

Gift laws: It is important to note that regulations relating to lobbying expenditures almost always intersect in complicated ways with state and local ethics and “gift ban” laws. Those state and local rules often apply even if your organization has not triggered lobbyist registration and may apply to a broader range of officials. Giving gifts or other

expenditures for the benefit of public officials can create multiple reporting challenges and perhaps even trip a threshold you might have otherwise stayed below.

For most smaller nonprofits without professional lobbying staff the best solution is to refrain from any gift giving or expenditures for the benefit of public officials in your lobby program. If your organization does refrain from any such spending, then your Lobby Activities Report expenditures will generally only include your mass media spend.

- **Filing your Lobbying Activity Reports online**

- Using your File ID number, you will complete your annual (“Modified”) or monthly (“Regular”) reports online. You can preview a PDF version of the “Lobby Activities Report” here <https://www.ethics.state.tx.us/data/forms/lobby/la.pdf> but please note that in the online version the section numbering is different for 2022 filers). The numbering described below refers to the current online form.
- **Section 1:** Check off the boxes for the Schedules you are submitting with this report. These are different Schedules than the ones in the lobbyist registration form. If you do not need to update the subject matter categories you are lobbying on, you will not need to file a Schedule A. If you have not made any expenditures for the benefit of public officials, then you will also not need to file any of Schedules B-G.
- **Section 2 and 3:** Fill in the name and Filer ID of the registered lobbyist (or your organization for your organizational report).
- **Section 4:** Check off whether you are submitting a Modified (annual) or Regular (monthly) report.

The EXCEEDED box is if you were originally registered as a Modified (annual) filer but have gone over the \$1,890 expenditures (total of expenditures made on public officials plus mass media expenditures) threshold and need to move to monthly reporting. If this is the case, then your first monthly form needs to cover the time between your registration and the first monthly report, and the first monthly report is due by the 10th day of the month after the month in which you exceeded \$1,890 in lobby expenditures. Remember that this threshold adjusts annually on January 1 in accordance with the percentage increase for the previous year in the Consumer Price Index.

Check the FINAL box if you are terminating your registration before it automatically expires at the end of the year.

- **Section 5:** Check the box indicating the report deadline you are meeting by submitting this report (e.g., February 10 – which would be your deadline for Regular (monthly) reporting on lobby expenditures made in January).
- **Section 6:** Enter the period this report covers (e.g., 01/01/2022 through 01/31/2022 for the Regular monthly report due February 10). If you are filing a Modified (annual) report, the report is due January 10 and the date range in Section 6 is the full calendar year.
- **Sections 7:** Here you are asked for total expenditures by “Type.” Every category other than the final Mass Media Communications category applies **only to expenditures made for the benefit of public officials**. If you have made no such expenditures for the benefit of public officials all those sections should be zero. Do not list here expenditures made to benefit your own staff. Report any of your grassroots work that counts as “Mass Media Expenditures” here (see definition above in the reportable expenditures FAQ).
- **Section 8:** Here you are asked to allocate your total expenditures made for the benefit of public officials, across the kinds of officials you were spending on. You do not need to report anything here if your only expenditures listed in Section 7 were mass media communications.

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- **Section 9 and 10:** These sections request the same information as Sections 2 and 3 again.
- **Section 11:** This section only needs to be completed if one of your individual lobbyist staff is reporting any of your organizational expenses. For example, if you are reporting your organizational Mass Media Communications on your lobbyist's report, you will do it here. If you have instead chosen to have the organization file the report, you will select "No."
- **Section 12:** Signature. Here, you affirm that the report is true to the best of your knowledge and add a digital signature.

Q: What kind of additional disclaimer rules apply to our advertising?

Legislative advertising disclaimers: Note that there is an additional requirement that you include disclaimer language on any of your mass media communications that are supporting or opposing, or encouraging others to support or oppose, legislation if you use a vendor to broadcast or print that legislative advertising (materials you print on your own office printer or copier do not need a disclaimer).

You can read more about the legislative advertising disclaimer rules here:

https://www.ethics.state.tx.us/resources/advertising/Bleg_adv.php

You may want to consult with legal counsel to understand the exact requirements given your specific advocacy program plan.

Q: Do our organization's donors need to be disclosed on any lobbying reports?

No, not generally. Donors are not disclosed to the Commission if your organization is incorporated (most nonprofits are legally incorporated as a nonprofit corporation). However, if your organization is unincorporated, you must disclose all donors who contributed more than \$250 in the current registration year to date on your registration filing.

All groups, both incorporated and unincorporated, are also required to report the source of funds used for lobbying that originated from a political contribution. If you are a 501(c)(3) organization, you should not be accepting such funds under IRS rules and this reporting should never apply to you. If you are another kind of tax-exempt organization that could potentially accept such funds (a 501(c)(4), 501(c)(5), or a 501(c)(6), for example) you must disclose the source of any such political contribution funds. This should generally only come up if you are accepting funds from a PAC specifically to fund your lobbying activities. In this case you should consider consulting an attorney for further advice.

Q: How are our lobbyists required to identify themselves while lobbying?

While there are no requirements to wear badges while lobbying state officials in Texas, it is a best practice to self-identify as a lobbyist before communicating with a public official.

Q: Are there any other restrictions on lobbyists that we should be aware of?

False communication by a lobbyist for the purpose of influencing official action is a criminal offense.

Paying lobbyists contingency fees based on securing the passage or defeat of any legislation, the governor's approval or veto of any legislation, or the outcome of any administrative action is also prohibited.

A lobbyist may not enter the floor of the House or Senate chamber unless invited by the legislative body itself. An invite from an individual member is not enough.

Case Study STUDENTS VOTE NOW

Students Vote Now is a hypothetical small 501(c)(3) advocacy organization considering being vocal about Bill 101 currently pending in the Texas House of Representatives

STUDENTS VOTE NOW IS CONSIDERING:

- Reaching out to its student constituents, via direct physical mailings, e-mails, and volunteer phone banking, in order to get the students to call their Texas House representative about the bill.
- Doing an in-person Lobby Day at the state capital about Bill 101 to meet with legislators, or alternatively arranging a virtual Zoom lobby event. The Lobby Day activity might potentially include renting a bus, buying T-shirts for the volunteer participants, and handing out some small swag type items from the organization to the legislators, or if done by Zoom, the purchase of an upgraded Zoom account.
- Testifying before a committee of the Texas House of Representatives regarding the student perspective on Bill 101.
- Having an employee engage with the Mayor of Houston about a similar, but separate, local ordinance being considered.

ACTIVITY	LOBBYIST REGISTRATION/REPORTING REQUIREMENTS
 <p>Student Engagement</p>	<p>The Student Engagement activities are grassroots lobbying activities that do not trigger registration under Texas state law. However, if Students Vote Now or any of its staff are otherwise required to register, the cost of some of the outreach may need to be reported as mass media communications, and legislative advertising disclaimers may also apply.</p>
 <p>Lobby Day</p>	<p>Lobby Day involves direct lobbying communications that are regulated in Texas. However, Students Vote Now may be able to design their program so that neither the organization nor any of its staff is required to register, while remaining in compliance with the lobbying rules.</p> <p>Individual staff are not required to register until they are paid more than \$1,640 on a prorated basis in a quarter to directly communicate (the Lobby Day meetings) or prepare to directly communicate (the preparation time for Lobby Day) AND spend more than 40 hours on this work in the quarter. Work can be divided between different staff members and does not get aggregated together, volunteers could be used to assist, and Students Vote Now lobbying activities could also potentially be spread over two quarters.</p> <p>Student Vote Now should avoid giving any swag gifts to the legislators and instead bring information about the organization.</p>
 <p>Committee Testimony</p>	<p>Committee Testimony is an exception to lobbying registration requirements unless the person testifying is paid extra for this work (not including reimbursement of their costs). This activity on its own will not trigger registration, nor will this work count towards the 40 hours per quarter threshold for staff.</p>
 <p>Mayor</p>	<p>State lobbying regulations do not apply to lobbying local officials. However, the City of Houston has a separate local lobbying ordinance that will apply if paid staff lobby the Mayor outside of a public hearing.¹ Students Vote Now could potentially use an unpaid person to have this conversation (for example, a Board member or a student) to avoid triggering local registration.</p>
<p>Bottom Line</p>	<p>Students Vote Now may be able to carry out all of its proposed activities without triggering a requirement to register and report but will need to carefully track prorated staff compensation and time. Legislative advertising rules may apply to the grassroots work, even if lobbyist registration is not required.</p>

¹ https://library.municode.com/tx/houston/codes/code_of_ordinances?nodetid=COOR_CH18ETFIDI_ARTVLO_S18-72PERERE
 See also, Bolder Advocacy's guide on Houston's lobby ordinance: <https://bolderadvocacy.org/wp-content/uploads/2016/08/Houston-Lobby-Factsheet-09142018.pdf>.

ADDITIONAL RESOURCES

BOLDER ADVOCACY'S TECHNICAL HOTLINE:

Bolder Advocacy's free Technical Hotline team is always happy to help nonprofits and advocacy attorneys with more specific questions. You can contact Bolder Advocacy's team of experts by emailing advocacy@afj.org or calling 866-NP-LOBBY (866-675-6229).

BOLDER ADVOCACY'S MORE DETAILED STATE LAW RESOURCES:

- See Bolder Advocacy's *Texas Lobbying Disclosure Guide* for more details on the actual text of the Texas lobbying statute, and any related advisory opinions. <https://bolderadvocacy.org/wp-content/uploads/2022/01/Texas-Lobbying-Disclosure-1.27.22-Updated.pdf>
- See Bolder Advocacy's *Texas Campaign Finance and Ballot Measure Guide* for rules related to state ballot measure advocacy, which Texas regulates as a campaign finance activity, unlike the IRS which regulates such activities as direct legislative lobbying. <https://bolderadvocacy.org/wp-content/uploads/2022/01/Texas-Campaign-Finance-Guide-2022.pdf>
- Also see Bolder Advocacy's Texas resource page, which contains lobby guides for most large cities that have local lobbying ordinances. https://bolderadvocacy.org/resource-library/?fwp_state=texas

TEXAS STATE RESOURCES:

- **Texas Ethics Commission**

The Texas Ethics Commission oversees the registration and reporting of lobbying activities in the state. <https://www.ethics.state.tx.us/>

- **Full Text of Texas Lobbying Statutes**

The full text of the Texas state lobbying statute (Texas Government Code, Chapter 305) can be found at: <https://www.ethics.state.tx.us/statutes/ch305.php#305>

Commission Rules (Chapter 34 – Regulation of Lobbyists) can be found at: <https://www.ethics.state.tx.us/rules/commission/ch34.php>

The bribery statute (Chapter 36 of the Texas Penal Code) can be found at: https://www.ethics.state.tx.us/statutes/ch36_39.php

- **Guides and Forms**

The Commission has a helpful lobbying guide, which is available at: https://www.ethics.state.tx.us/data/resources/guides/lobby_guide.pdf

Copies of the initial registration form, as well as the Lobbying Activities Reports (with more detailed instructions) are available at: <https://www.ethics.state.tx.us/forms/lobby/>

For understanding Legislative Advertising disclaimer rules: https://www.ethics.state.tx.us/resources/advertising/Bleg_adv.php

For understanding Political Advertising: <https://www.ethics.state.tx.us/resources/advertising/>

- **Additional Questions**

Helpful additional resources are available at <https://www.ethics.state.tx.us/resources/lobby/>. Any questions about lobbyist registration and reporting can also be directed to the Texas Ethics Commission at 512-463-5800.

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