



COUNTY OF ORANGE
BOARD OF SUPERVISORS

ROBERT E. THOMAS HALL OF ADMINISTRATION
 10 CIVIC CENTER PLAZA
 P. O. BOX 687
 SANTA ANA, CA 92702-0687

2010 NOV 19 PM 12:06
 CLERK OF THE BOARD
 ORANGE COUNTY
 BOARD OF SUPERVISORS

Date: November 19, 2010

TO: Darlene Bloom, Clerk of the Board

FROM: Shawn Nelson, Supervisor, Fourth District x
 Patricia C. Bates, Supervisor, Fifth District

SHAWN
JIA for Sgt Bates
 #S45A

SUBJECT: Supplemental Item for 11/23/10 Agenda

OK - M... - 7. PER CHAIR ACTION

Please place this item on the November 23, 2010 agenda as a supplemental item.

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COCO	<u>1</u>
GRAND JURY	<u>1</u>
DATE <u>11/19</u> BY <u>Shawn</u>	



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ORANGE COUNTY
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Date: November 19, 2010
TO: Members, Orange County Board of Supervisors
FROM: Shawn Nelson, Supervisor, Fourth District
Patricia C. Bates, Supervisor, Fifth District
SUBJECT: Lobbyist Reporting Ordinance

Shawn
Pat C. Bates

OK - matter in FORCIBIR NUMBER

Colleagues,

The Purpose of this memorandum is to place this item on the Supplemental Calendar for the November 23, 2010 Board of Supervisors agenda to approve the following recommended actions and adoption of the attached Lobbyist Reporting Ordinance.

#545A

RECOMMENDED ACTION(S):

1. Read the title of the ordinance
2. Order further reading of the ordinance be waived.
3. Consider the matter.
4. Direct that the ordinance be placed on the agenda of the next regularly scheduled Board meeting for adoption.
5. At the next regularly scheduled meeting, consider the matter, and adopt the ordinance.

SUMMARY:

The proposed ordinance would require each person or entity that qualifies as a "County Lobbyist," as defined, to file annual reports with the Clerk of the Board. The ordinance requires that the reports include the name, address, telephone number, and email address of (1) the County lobbyist, as defined; (2) each employer of the County lobbyist; (3) each person or entity that is represented by the County lobbyist.

Reports filed pursuant to the proposed ordinance would be available for inspection on the County's website within ninety (90) days of January 1, 2011, the operative date of the proposed ordinance.

The proposed ordinance would become operative on January 1, 2011.

ATTACHMENT:

Exhibit A: Lobbyist Reporting Ordinance

ORDINANCE NO. _____

AN ORDINANCE OF THE COUNTY OF ORANGE, CALIFORNIA ADDING
ARTICLE 5 TO DIVISION 1 OF TITLE 1 OF THE CODIFIED ORDINANCES OF
THE COUNTY OF ORANGE PERTAINING TO LOBBYIST REPORTING

The Board of Supervisors of the County of Orange, California, ordains as follows:

SECTION 1: Article 5 is hereby added to Division 1 of Title 1 of the Codified Ordinances of the County of Orange to read as follows:

Article 5
LOBBYIST REPORTING

Sec. 1-1-80. Definitions.

For the purpose of this Article:

(a) "Administrative action" means the proposal, drafting, development, consideration, amendment, enactment, or defeat of any rule, regulation, policy, or other action in any proceeding that will apply generally to a group or class of persons; or any decision to initiate, defend, appeal, or take any other action regarding litigation by or against the County of Orange or any official or employee of the County of Orange.

(b) "County lobbyist" means any person who:

(1) Engages in "lobbying activities" with any public official of the County of Orange, California, for the purpose of "influencing official action" as defined herein or encouraging "legislative action" as defined herein during a calendar year on behalf of any person, corporation, partnership, limited liability company, labor organization, labor union, non-profit organization, advocacy group or any other business entity other than his or her self.

(c) "Influencing official action" means promoting, supporting, influencing, modifying, opposing, or delaying any administrative, legislative, or quasi-judicial action by any means, including but not limited to the provision or use of information, statistics, studies or analyses.

(d) "Legislative action" means the proposal, drafting, development, consideration, amendment, enactment, or defeat of any County ordinance, expenditure, budget or the components thereof .

(e) "Lobbying activities" means any oral, written, or electronic communication to a public official, made directly or indirectly, for the purpose of influencing official action. Provided, however, lobbying activities shall not include:

(1) A request for information or inquiry about the facts or status of any matter when the request is not made to attempt to influence official action, or

(2) A written comment filed in the course of a public proceeding or any other communication that is made on the record at a public meeting, or

(3) A written communication as a petition for official action and required to be a public record pursuant to County procedures provided it is publicly recorded and disclosed before the vote or action, or

(4) A written response to a request by a public official or other County employee for specific information, or

(5) A communication made by a public official or public employee acting in the public official's or public employee's official capacity, or

(6) A response to a public notice soliciting communications from the public and directed to the public official or other County employee specifically designated in the notice to receive such communications, or

(7) A communication by an attorney or advocate made solely in connection with his or her duties representing a party to an administrative proceeding the decision of which is reviewable by a court pursuant to California Code of Civil Procedure Section 1094.5.

(f) "Public official" has the same meaning as in Section 1-3-22(k) of this Code.

(g) "Public testimony" means an appearance at a public meeting of the Board of Supervisors, any sub-committee of the Board, or any County agency or commission.

(h) "Quasi-judicial action" means the consideration or re-consideration of the granting or denial of any permit, grant license or other entitlement of use, and the awarding, granting or denial of any County contract for the purchase or sale of property, goods or services by the County or any agency of the County; and

the awarding, granting or denial of any contract with any public employee bargaining unit.

Any other term not defined by this section but defined in the California Political Reform Act (Title 9 of the California Government Code) or the California Code of Regulations enacted thereto, shall govern the interpretation of this Article.

Sec. 1-1-81. Annual reporting.

(a) Within thirty (30) days of engaging in any lobbying activity but no more than one (1) time per calendar year for each separate entity represented, each person that qualified as a County lobbyist during that year shall file with the County Clerk of the Board a report containing the information set forth in subsections (1) through (3) below, regarding the County lobbyist's lobbying activities during such calendar year. The form of the report shall be drafted and updated from time to time by County Counsel, and shall be made available through the website of the County of Orange and in hard copy in the offices of the County Clerk of the Board.

(1) The full name, business address, telephone number, and e-mail address of the County lobbyist;

(2) The full name, business address, telephone number, and e-mail address of each employer of the County lobbyist;

(3) The full name, business address, telephone number and e-mail address of each person or entity that is represented by the County lobbyist.

(b) Within ninety (90) days from the operative date of this Article, County lobbyist reports shall be made available for public inspection on the County's website.

Sec. 1-1-82. Prohibited acts.

No County lobbyist shall:

(a) Do anything with the purpose of placing any County public official under personal obligation to the County lobbyist

(b) Deceive or attempt to deceive any County public official with regard to any material fact pertinent to any pending or proposed legislative, administrative, or quasi-judicial action.

(c) Cause or influence the introduction of any legislative, administrative, or quasi-judicial action for the purpose of thereafter being employed to secure its passage or defeat.

(d) Attempt to create a fictitious appearance of public favor or disfavor of any proposed legislative, administrative, or quasi-judicial action or to cause any communication to be sent to any County official in the name of any fictitious person or in the name of any real person, except with the consent of such real person.

(e) Represent falsely, either directly or indirectly, that the County lobbying firm can control the official action of any County official.

(f) Have been a County of Orange, California employee during the prior twelve (12) months.

Sec. 1-1-83. Enforcement.

(a) If the filing of a County lobbyist report is made beyond its due date, the County Clerk of the Board shall impose the following penalties:

(1) Written warning letter sent to the filer for filings made within the first two (2) months after the due date of the filing.

(2) Twenty five dollars (\$25) per month for the next two (2) months after the due date of the filing;

(3) Fifty dollars (\$50) per week for the next two (2) months if the filing is not made within four (four) months after the due date;

(4) Seventy five dollars (\$75) per month until the date that the filer comes into compliance with the provisions of this Article or the date that any other penalties are imposed by the Board of Supervisors or the County Clerk of the Board as provided for in this Article, whichever occurs first, if the filing is not made within six (6) months after the due date.

A penalty imposed under this subsection (a) shall not exceed five hundreds dollars (\$500).

(b) Any person who knowingly, intentionally, or negligently violates the provisions of this Article shall be liable in a civil action brought by the office of the County Counsel. Any violation of the provisions of this Article may result in civil penalties no greater than two thousand five hundred dollars (\$2,500).

Sec. 1-1-84. Severability.

The provisions of this Article are severable. If any provision of this Article or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

Sec. 1-1-85. Operative Date

The provisions of this Article shall become operative on January 1, 2011.

Sec. 1-1-86.

The provisions of the Orange County Gift Ban Ordinance [Orange County Codified Ordinances section 1-3-21 et.seq.] shall control over any conflicting provision[s] of this ordinance.