

**PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY**

Meeting Date: June 15, 2021 ☐ Consent ☐ Regular ☒ Public Hearing

Department/Submitted By: COMMISSION ON ETHICS

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to adopt: An Ordinance of the Board of County Commissioners of Palm Beach County, Florida, amending Chapter 2, Article VIII, of The Palm Beach County Code, The Palm Beach County Lobbyist Registration Ordinance, as amended amending section 2-352 (Definitions); amending section 2-353 (Registration and Expenditures); amending section 2-354 (Record of Lobbying Contacts); amending section 2-355 (Cone of Silence); amending section 2-357 (Penalties); providing for a Savings Clause; providing for Repeal of Laws in Conflict; providing for Severability; providing for Inclusion in the Code of Laws and Ordinances; providing for Enforcement; providing for Penalties; and providing for an Effective Date.

SUMMARY: The Board of County Commissioners adopted the current version of the Palm Beach County Lobbyist Registration Ordinance in December of 2011. These amendments were proposed by the Commission on Ethics and recommended for approval by the ordinance review committee. These amendments revise certain definitions to match the terminology used in the Code of Ethics; remove the requirement of reporting of expenditures by lobbyists who had no expenditures over \$25 annually per principal; provide for a permanent suspension from lobbying after three or more violations of any provisions of the Lobbyist Registration Ordinance; and allow for a petition for reinstatement to be filed with the Commission on Ethics 365 days after permanent suspension is ordered. **Countywide** (HJF)

Background and Policy Issues: The Palm Beach County Lobbyist Registration Ordinance applies to the county and any municipal that does not have a conflicting ordinance in effect.

Attachment:

- ## 1. Proposed Lobbyist Registration Ordinance Amendments

Recommended by: Mark E. Bannon 5/19/2021
Mark E. Bannon, Executive Director Date

Approved by: Todd Bonlarron 6/1/21
Todd Bonlarron, Assistant County Administrator Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

| Fiscal Years | 2021 | 2022 | 2023 | 2024 | 2025 |
|--|------------------|-------|------------|-------|--------------|
| Capital Expenditures | _____ | _____ | _____ | _____ | _____ |
| Operating Costs | _____ | _____ | _____ | _____ | _____ |
| External Revenues | _____ | _____ | _____ | _____ | _____ |
| Program Income (County) | _____ | _____ | _____ | _____ | _____ |
| In-Kind Match (County) | _____ | _____ | _____ | _____ | _____ |
| NET FISCAL IMPACT | _____ | _____ | _____ | _____ | _____ |
| # ADDITIONAL FTE POSITIONS (Cumulative) | _____ | _____ | _____ | _____ | _____ |
| Is Item Included in Current Budget? | Yes _____ | | No _____ | | |
| Budget Account No.: Fund _____ | Department _____ | | Unit _____ | | Object _____ |
| Reporting Category _____ | | | | | |

B. Recommended Sources of Funds/Summary of Fiscal Impact:

C. Departmental Fiscal Review: _____

III. REVIEW COMMENTS

A. OFMB Fiscal and/or Contract Development and Control Comments:

Steve Monte 5/25/21 Andrea S. Jaworski 5/20/21
OFMB QA 5-26-21 825120 Contract Development and Control

B. Legal Sufficiency:

Howard J. Falcon, III 5/27/21
Howard J. Falcon, III
Chief Assistant County Attorney

C. Other Department Review:

Department Director

THIS SUMMARY IS NOT TO BE USED AS A BASIS FOR PAYMENT.

ORDINANCE NO
2021 - --

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, AMENDING CHAPTER 2, ARTICLE VIII, OF THE PALM BEACH COUNTY CODE, THE PALM BEACH COUNTY LOBBYIST REGISTRATION ORDINANCE, AS AMENDED; AMENDING SECTION 2-352 (DEFINITIONS); AMENDING SECTION 2-353 (REGISTRATION AND EXPENDITURES); AMENDING SECTION 2-354 (RECORD OF LOBBYING CONTACTS); AMENDING SECTION 2-355 (CONE OF SILENCE); AMENDING SECTION 2-357 (PENALTIES); PROVIDING FOR A SAVINGS CLAUSE; PROVIDING FOR REPEAL OF LAWS IN CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE OF LAWS AND ORDINANCES; PROVIDING FOR ENFORCEMENT; PROVIDING FOR PENALTIES; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, based on a referendum on November 2, 2010, concerning proposed amendments to the Palm Beach County Charter, a majority of voters in the County and in every municipality in Palm Beach County elected to require the Board of County Commissioners to adopt an ordinance to establish a countywide Commission on Ethics with the authority to review, interpret, render advisory opinions and to enforce the countywide Palm Beach County Code of Ethics, Palm Beach County Lobbyist Registration Ordinance, and Palm Beach County Post-Employment Ordinance, and to provide ethics training for the benefit of local governments, citizens groups and the general public; and

WHEREAS, the Palm Beach County Board of County Commissioners adopted the current Palm Beach County Lobbyist Registration Ordinance, Ordinance 2011-039 on December 20, 2011;

WHEREAS, the Board of County Commissioners finds that the amendments set forth herein advances the purposes and intent of the Palm Beach County Charter amendments approved by the electorate on November 2, 2010; and

WHEREAS, the Board of County Commissioners of Palm Beach County, pursuant to its authority under Florida Constitution, Article VIII, Section 1 (g), Section 125.01, Florida Statutes, the Palm Beach County Charter, hereby amends the Palm Beach County Lobbyist Registration Ordinance; and

WHEREAS, the Board of County Commissioners has conducted a duly noticed public hearing to consider these amendments as required by law.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that:

Part 1. Sec. 2-352 is amended as follows:

Sec. 2-352. Definitions.

Board ~~will~~shall mean the board of county commissioners of Palm Beach County, Florida.

Central Lobbyist Registry ~~Registration Site~~ ~~will~~ shall mean the official location for countywide lobbyist registration.

County commissioner ~~will~~shall mean any member of the board of county commissioners of Palm Beach County, Florida.

Lobbyist shall mean any person who is employed and receives payment, or who contracts for economic consideration, or who registers in the county's central lobbyist registration registry or with any municipality, for the purpose of lobbying on behalf of a principal, and shall include an employee whose principal responsibility to the employer is overseeing the employer's various relationships with government or representing the employer in its contacts with government.

"Lobbyist" shall not include:

(2) Any person who is retained or employed for the purpose of representing an employer, principal or client only during a publicly noticed quasi-judicial hearing or comprehensive plan hearing, provided the person identifies the employer, principal or client at the hearing, and providing that the person is not otherwise registered as a lobbyist in the county's central lobbyist registration database, or with any municipal lobbyist registration system when that municipality has its own lobbyist registration process.

Local Municipal Governing Body ~~will~~shall mean the councils and commissions of the municipalities located within Palm Beach County, Florida.

Member of Local Municipal Governing Body ~~will~~shall mean any member of the municipal council or commission.

Official or employee means any official or employee of the county or the municipalities located within the county, whether paid or unpaid. The term "employee" includes but is not limited to all managers, department heads and personnel of the county or the municipalities located within the county. ~~The term also includes contract personnel and contract administrators performing a government function, and chief executive officer who is not part of the local governing body. The~~ term also includes volunteers of the county or the municipalities located within the county when such volunteers exercise discretionary police, fire, or parking enforcement department authority. The term "employee" also includes the chief executive officer of the county or any municipality, who is not part of the local governing body. If the county or municipality utilizes and contracts for "privatized" chief administrative officers or chief executive officers, then the person providing such services, or the officers, directors and employees of any entity providing such services, shall be considered the employees of the county or municipality that he or she serves. However, it shall not include local government attorneys as defined in Florida Statutes § 112.313, or attorneys who

render contracted services to the county or municipality that are limited in scope to a specific issue
or subject, to specific litigation, or to a specific administrative proceeding. The term “official”
shall mean members of the board of county commissioners, a mayor, members of local municipal
governing bodies, and members appointed by the board of county commissioners, members of
local municipal governing bodies or mayors or chief executive officers that are not members of
local municipal governing body; as applicable, to serve on any advisory, quasi-judicial, or any
other board of the county, state, or any other regional, local, municipal, or corporate entity.

Part 2. Sec. 2-353 is amended as follows:

Sec. 2-353. Registration and expenditures.

(a) Registration required. Prior to lobbying, all lobbyists shall submit an original, fully
executed registration form to county administration, which shall serve as the official
location for countywide lobbyist registration and which shall be known as the “Central
Lobbyist ~~Registration Site~~Registry.” The registration may be submitted in paper or
electronic form pursuant to countywide policies and procedures. Each lobbyist is required
to submit a separate registration for each principal represented. A registration fee of
twenty-five dollars (\$25) must be included with each registration form submitted. A
registrant, or principal who is represented by the registrant, shall promptly send a written
statement to county administration canceling the registration for a principal upon
termination of the lobbyist's representation of that principal. This statement shall be signed
by the lobbyist or principal. Lobbying prior to registration is prohibited. It is the
responsibility of the lobbyist to keep all information contained in the registration form
current and up to date.

107 *(d) Reporting of expenditures.* Commencing ~~November 2011~~August 31, 2021, and by
108 ~~November~~February 1 of each year thereafter, all lobbyists shall submit to the Central
109 Lobbyist ~~Registration Site~~Registry a signed statement under oath listing all expenditures
110 made by the lobbyist in lobbying county or municipal officials and employees in excess of
111 twenty-five dollars (\$25) for the preceding ~~fiscal~~calendar year. ~~commencing on October 1~~
112 ~~and ending on September 30~~. A statement shall not be required to be filed ~~even~~ if there
113 have been no expenditures in excess of twenty-five dollars (\$25) during the reporting
114 period. The statement shall list in detail each expenditure category, including food and
115 beverage, entertainment, research, communications, media advertising, publications,
116 travel, lodging and special events. Political contributions and expenditures which are
117 reported under election laws as well as campaign-related personal services provided
118 without compensation are excluded from the reporting requirements. A lobbyist or
119 principal's salary, office overhead expenses and personal expenses for lodging, meals and
120 travel also are excluded from the reporting requirements. Research is an office expense
121 unless it is performed by independent contractors rather than by the lobbyist or the
122 lobbyist's firm.

123 (1) The county administrator of the Central Lobbyist ~~Registration Site~~Registry shall
124 provide notice of violation to any lobbyist who fails to timely file an expenditure report
125 ~~and shall also notify the county commission on ethics of this failure~~. In addition to any
126 other penalties which may be imposed under this article, any lobbyist who fails to file
127 the required expenditure report within thirty (30) days of the date of notice of violation
128 shall be suspended from lobbying unless the notice of violation has been appealed to
129 the commission on ethics.

130 ***

Part 3. Sec. 2-354 shall be amended as follows:

Sec. 2-354. Record of lobbying contacts.

(a) Contact log. Except when appearing before the board, local municipal governing body, or any advisory board, all persons shall sign, for each instance of lobbying, contact logs maintained and available in the office of reception of each department of county or municipal government as applicable. The person shall provide his or her name, whether or not the person is a lobbyist as defined in this article, the name of each principal, if any, represented in the course of the particular contact, and the subject matter of the lobbying contact. All contact logs shall be maintained by the County or municipality as applicable for a period of five (5) ~~fiscal~~calendar years.

Part 4. Sec.2-355

Sec. 2-355. Cone of silence.

(f) The cone of silence shall terminate at the time the board, local municipal governing body, or a county or municipal department authorized to act on behalf of the board or local municipal governing body as applicable, awards or approves a contract, rejects all bids or responses, or otherwise takes action ~~which~~that ends the solicitation process.

Part 5. Sec. 2-357 is amended as follows:

Sec. 2-357. Penalties

Violations of this article shall be punishable as follows:

(5) Any person who violates the provisions of this article regarding yearly reporting of expenditures as required shall result in a suspension of lobbying activity until such time as the required expenditure report is filed. A first violation shall also include a suspension of all lobbying activity for an additional 90 days beyond the point the expenditure report is

155 filed. A second violation shall result in a suspension from lobbying for an additional 180
156 days. Three or more violations shall result in a permanent suspension from lobbying; a
157 petition for reinstatement may be filed with the commission on ethics 365 days after
158 permanent suspension is ordered.

159 ~~(5)~~(6) A violation of any provisions of this article not related to expenditure reporting more
160 than once during a twelve-month period shall ~~be~~result in being prohibited from lobbying as
161 follows: A second violation shall result in a prohibition of one (1) year; a third violation shall
162 result in a prohibition of two (2) years.

163 ~~(6)~~(7) The penalties provided in this section shall be exclusive penalties imposed for any
164 violation of the registration, contact log, and cone of silence requirements of this article.
165 Willful and knowing violations of this article shall be referred by the commission on ethics to
166 the state attorney for prosecution in the same manner as a first degree misdemeanor pursuant
167 to Florida Statutes, §125.69. Failure or refusal of any lobbyist to comply with any order of the
168 commission on ethics shall be punishable as provided by law, and shall otherwise be subject
169 to such civil remedies as the county or municipality as applicable may pursue, including
170 injunctive relief.

171 **Part 6. Savings Clause.**

172 All complaints, investigations, advisory opinions, recommended orders, final orders,
173 requests for advisory opinions, hearing processes, and all other functions of the Palm Beach County
174 Commission on Ethics, initiated or completed pursuant to Ordinances 2011-10, 2011-11, or
175 2011-39, as may be amended, shall remain in full force and effect.

176 **Part 7. Repeal of Laws in Conflict.**

177 All local laws and ordinances in conflict with any provisions of this Ordinance are hereby
178 repealed to the extent of such conflict.

Part 8. Severability.

If any section, paragraph, sentence, clause, phrase, or word of this Ordinance is for any reason held by the Court to be unconstitutional, inoperative, or void, such holding shall not affect the remainder of this Ordinance.

Part 9. Inclusion in the Code of Laws and Ordinances.

The provisions of this Ordinance shall become and be made a part of the Code of Laws and Ordinances of Palm Beach County, Florida. The sections of this Ordinance may be renumbered or re-lettered to accomplish such, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

Part 10. Enforcement.

This Ordinance is enforceable by all means provided by law. Additionally, the County may choose to enforce this Ordinance by seeking injunctive relief in the Circuit Court of Palm Beach County.

Part 11. Penalty.

Any violation of any portion of this Ordinance shall be punishable as provided by law.

Part 12. Effective Date.

The provisions of this Ordinance shall become effective on July 1, 2021.

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203 APPROVED AND ADOPTED by the Board of County Commissioners of Palm Beach

204 County, Florida, on this the ____ day of _____, 2021.

205 ATTEST: PALM BEACH COUNTY, FLORIDA,
206 JOSEPH ABRUZZO, CLERK BY ITS BOARD OF
207 OF THE CIRCUIT COURT COUNTY COMMISSIONERS
208 & COMPTROLLER

211 By: _____ By: _____
212 Deputy Clerk Dave Kerner, Mayor

215 (SEAL)

217 APPROVED AS TO FORM AND
218 LEGAL SUFFICIENCY

221 By: _____
222 County Attorney

224 Filed with the Department of State on the ____ day of _____, 2021.