

Agenda Item 7A
Revised Lobbying Language

Summary

The staff has drafted a cover letter for submission to the mayor and city commission. We are seeking input to finalize the draft.

In a previous meeting, the Board directed the partial submission of the revisions to the mayor and city commission. After discussing the revisions with the City-Treasurer Clerk, the staff believes the Board's interest would be served by submitting all of the revisions.

Recommendation

The staff recommends submitting all of the revised languages along with the drafted cover letter.

Support Documentation

Cover letter with recommendations for revisions to City Charter and Ordinances, **see page 2.**



CITY OF TALLAHASSEE INDEPENDENT ETHICS OFFICE

May 18, 2021

Tallahassee City Commission
Tallahassee City Hall
300 S. Adams Street
Tallahassee, FL 32301

**RE: Recommendations for Charter and Code of Ordinances (lobbying)
Draft Ordinance Nos.: 20-ORD-01, 20-ORD-02, and 20-ORD-03**

Dear Mayor and Commissioners,

I hope this correspondence finds you well. Enclosed please find recommendations to the municipal Charter and Code of General Ordinance pertaining to lobbying and lobbyists.

1. **Draft Ordinance No.: 20-ORD-01:** These four (4) recommendations are changes to the Code of General Ordinances that can be adopted now without any change to the Tallahassee Charter. (*See Ex. "A".*)
2. **Draft Ordinance No.: 20-ORD-02:** This recommendation is a proposed amendment to the Tallahassee Charter, broadening the jurisdiction of the Independent Ethics Board to include lobbyists. The proposal also includes sample ballot language. (*See Ex. "B".*)
3. **Draft Ordinance No.: 20-ORD-03:** These two (2) recommendations are changes to the Code of General Ordinances that are not yet ripe for adoption and are contingent on the passage of the charter amendment proposed in Draft Ordinance No.: 20-ORD-02. (*See Ex. "C".*)

This work product is the result of months of discussion and analysis by the Tallahassee Independent Ethics Board (hereinafter referred to as the "Board") in an effort to complement the exceptional work already done by the Tallahassee City Commission to promote high ethical standards in the Capital City. We have greatly enjoyed working with you and your staff to ensure the City of Tallahassee leads the state in ethics, transparency, and good government.

In November 2014, the people of Tallahassee overwhelmingly voted to amend our municipal charter, creating and authorizing the City of Tallahassee Independent Ethics Board. Among those enumerated duties assigned to the Board is the responsibility to recommend changes to local laws and policies related to issues of ethics and good government.

Specifically, the charter directs the Ethics Board to “recommend proposed ordinances, resolutions, or charter amendments to the City Commission in all areas of ethics and corruption, including but not limited to: conflicts of interests, financial disclosure, voting conflicts, hotline policies, ethics education, ethics in procurement, campaign ethics and financing, and **lobbying**; such legislative proposals shall be filed with and considered by the City Commission[.]” § 61, TALLAHASSEE MUNICIPAL CHARTER. (*emphasis added*)

The enclosed recommendations, submitted for your review and consideration, are limited to the Board’s authorization section in the Charter and those ordinances regulating lobbyists and lobbying.

BACKGROUND

In early 2020, local news sources ran stories identifying deficiencies in the city’s lobbyist regulations. *See* Etters, Karl, “THE MAN BEHIND THE CURTAIN: How Drew Jones wields influence in Tallahassee,” Tallahassee Democrat, Jan. 16, 2020; Williams, Jada, “Tallahassee Ethics Board tackles lobbyist guidelines,” WTXL (ABC27), Jan. 22, 2020. The Board discussed the issue and addressed how the ordinance language could be improved. While the debate was temporarily sidelined due to the COVID-19 pandemic, the Board resumed its deliberation in late 2020, narrowed the issues presented, and approves those recommendations to submit to the City Commission.

DRAFT ORDINANCE NO.: 20-ORD-01

RECOMMENDATION #1 §§ 1 and 3, Draft Ord. No.: 20-ORD-01 Revised Definitions

Upon review of the current ordinance, the Board identified the circular nature in its definitions. Of the recommendations proposed, the Board feels this provision is most urgent in order to prevent any potential loopholes and to promote more transparency in local government.

The current ordinance defines “lobbying” as “communications, whether written or oral, **by a lobbyist** outside a duly noticed public meeting or hearing on the record with any member or members of the city commission, or any member or members of any decision-making body under the jurisdiction of the city commission, or any city employee[.]” § 2-338(a), CODE OF GENERAL ORDINANCES, CITY OF TALLAHASSEE, FLORIDA (2021) (*emphasis added*). The subsection continues to limit lobbying as actions taken by lobbyists.

The same section defines “lobbyist” as “a person who is employed and receives payment, or who contracts for economic consideration, **for the purpose of lobbying**, or a person who is

principally **employed** for governmental affairs by another person or governmental entity **to lobby** on behalf of that person or governmental entity.” § 2-338(a), CODE OF GENERAL ORDINANCES, CITY OF TALLAHASSEE, FLORIDA (2021) (*emphasis added*). As you can see, the two (2) subsections involve a circular narrative. “Lobbying” is work done by a lobbyist, while a “lobbyist” is one who engaged in lobbying.

Our proposed language places the greater emphasis on the definition of “lobbyist.” As before, it identifies “lobbying” as work done by “lobbyists,” but the new subsection (b) fleshes out the definition and explicitly identifies conduct that would fall under that job description.

It is the opinion of the Board that such an approach eliminates any ambiguity in the current ordinance, which will better protect those individuals and entities engaging city government and instill confidence with the public.

The first section of our proposal also includes exceptions to the definition. Previously, exemptions to the lobbyist regulation were found in a different ordinance. *See* § 2-340, CODE OF GENERAL ORDINANCES, CITY OF TALLAHASSEE, FLORIDA (2021). Our language brings the exceptions into the same section as the definitions.

RECOMMENDATION #2
§ 2, Draft Ord. No.: 20-ORD-01
Registration of Issues + Contact Logs

Local news outlets also raised the issue of public officials meeting with lobbyists behind closed doors and the general lack of transparency. *See* Burlew, Jeff, “INSIDE INFLUENCE: Public policy, secret sway and ‘schmoozing’ in Tallahassee, Leon County,” Tallahassee Democrat, Jan. 9, 2020. The article also cites an example where a local lobbyist admitted and apologized publicly for failing to register as a lobbyist while he actively lobbied on the issue of litigation against opioid drug manufacturers. Id.

The Board obviously does not wish to infringe upon anyone’s First Amendment right to petition their government, and we do not wish to force all meetings into public. This recommendation, however, strikes a compromise position that provides for greater transparency in the process.

First, the proposed language requires lobbyists, when registering, to include the “name or title and/or ordinance number” that he or she wishes to discuss. This language simply codifies information already required in the current annual registration form.

Second, the Board recommends that all covered individuals, as defined by section 2-4, be required to ensure that those lobbying him or her on any particular issue is properly registered with the Office of the City Treasurer-Clerk.

Third, the recommended ordinance mandates contact logs between covered individuals and lobbyists. The duty to maintain and submit said logs would fall upon the lobbyist, and such log would be required to be filed no later than three (3) business days following the lobbying activity.

RECOMMENDATION #3
§ 4, Draft Ord. No.: 20-ORD-01
Ban on Contingency Fees

The Board recommends that the City of Tallahassee follow the law imposed by the Florida Legislature upon those seeking to lobby. Florida law strictly bars lobbyists from being paid on a contingency basis with a narrow exception for claims bills. *See* § 11.047(2), FLA. STAT. (2020). As the issue of claims bills is not relevant to local governments, the proposed language simply bars contingency fees for lobbyists in all cases.

The proposed language mirrors that found in state statutes. The Board’s draft includes the state’s definition for the term “contingency fee,” prohibits such compensation, makes such payment a criminal act classified as a misdemeanor, and provides for disgorgement by the City.

RECOMMENDATION #4
§ 5, Draft Ord. No.: 20-ORD-01
Public Website

The final provision simply codifies what is current policy of the City of Tallahassee. The language pertaining to quarterly compensation reports remains unchanged; however, the ordinance now requires that said reports be available to the public through the City’s website.

DRAFT ORDINANCE NO.: 20-ORD-02

RECOMMENDATION #1
§ 1, Draft Ord. No.: 20-ORD-02
Expanded Jurisdiction

The current language of the municipal charter limits the jurisdiction of the City of Tallahassee Independent Ethics Board over “officers and employees of the City of Tallahassee, whether elected or appointed, paid or unpaid, over the members, officers and employees of any boards, commissions, or committees thereof.” § 61, TALLAHASSEE MUNICIPAL CHARTER. The Independent Ethics Officer, however, is also included in the ordinance related to infractions by lobbyists. Specifically, local ordinance designates the Independent Ethics Officer as “a point of contact for a complaint regarding a failure of a lobbyist to register” with the City. *See* § 2-345(a), CODE OF GENERAL ORDINANCES, CITY OF TALLAHASSEE, FLORIDA (2021).

The City Commission, as indicated in the current ordinance, intended for the Independent Ethics Officer to play a role in the discipline of lobbyists failing to register, albeit a limited one. This proposed charter amendment expands the jurisdiction to include lobbyists within the jurisdiction of the Board, which allows the Board to better work in partnership with the City Treasurer-Clerk to enforce lobbyist ordinances.

The proposed amendment adds “lobbyists appearing before the city” to the persons subject to the Board’s jurisdiction. Additionally, the proposed language amends the municipal charter to add to the enumerated powers of the Board the power of judicial review over penalties assessed and disciplinary action imposed by the City Treasurer-Clerk. The City Treasurer-Clerk as the primary enforcement agency for lobbyist infractions remains unchanged. This amendment simply adds an additional administrative remedy for those seeking to dispute a penalty or action prior to seeking judicial review in Circuit Court.

DRAFT ORDINANCE NO.: 20-ORD-03

The language proposed in Draft Ordinance No. 20-ORD-03 is not permissible under the municipal charter as currently drafted as the duties assigned to the Board in this draft exceed its current jurisdiction. These proposals are contingent upon the adoption of Draft Ordinance No.: 20-ORD-02 and its corresponding referendum passed by the city’s electors.

RECOMMENDATION #1 § 1, Draft Ord. No.: 20-ORD-03 Expands Jurisdiction to Review Lobbyist Penalties

In December 2019, the City Commission moved within the Ethics Code section 2-9 to section 2-11 ; however, the language remained unchanged. In this section, lobbyists employed by the City fall within the Ethics Code, but the duty to identify conflicts of interest rests with the City Treasurer-Clerk. As this section already addresses lobbyists, albeit those employed by the City, the Board proposes language within this same section to address lobbyists appearing before the City of Tallahassee as well.

The proposed language mirrors that in section 2-345, where the City Commission identified the Independent Ethics Officer as a point of contact for those registering complaints against lobbyists employed by third parties. The language is broadened to empower the Independent Ethics Officer to not only serve as a point of contact but to initiate an action with the Office of the City Treasurer-Clerk.

The proposed language maintains the Office of the City Treasurer-Clerk as the body with original jurisdiction over lobbyist complaints but adds the Independent Ethics Board as a body with appellate review for those lobbyists that dispute their penalties. This additional

administrative remedy serves to resolve these disputes within the City instead of requiring the lobbyist to pursue outside litigation through the Circuit Court, which is the current policy. The option to remove the case to an Article V court remains; however, the inclusion of the Board as an intermediate step should serve to keep these issues within the administrative realm of the City.

RECOMMENDATION #2
§§ 2 and 3, Draft Ord. No.: 20-ORD-03
Incorporates Board's Role in Lobbyist Enforcement

Article VIII of the Tallahassee Code of General Ordinances, entitled “Lobbyist Regulations,” already includes language related to the Independent Ethics Board imposing penalties authorized under the Ethics Code and those final orders being subject to judicial review before the Circuit Court. *See* §§ 2-345 and 2-346, CODE OF GENERAL ORDINANCES, CITY OF TALLAHASSEE, FLORIDA (2021). Some of this language appears to be misplaced and was added to the code when the Ethics Code rewrite was adopted in December 2019. At a later date, it would be advisable to include language within the Ethics Code to clarify the right to judicial review of quasi-judicial bodies to the Circuit Court. Nevertheless, the proposed changes maintain this current language but expands it to include appellate review of lobbyist penalties.

As previously discussed, section 2-345 already provides for the Independent Ethics Officer to serve as a point of contact for complaints against lobbyists appearing before the City who fail to properly register. The proposed language maintains this role but provides for the Independent Ethics Officer to also initiate those complaints through the Office of the Treasurer-Clerk. This language mirrors that proposed above for section 2-11.

Also in section 2-345, the proposed changes establish the Independent Ethics Board as a secondary administrative step for those penalized lobbyists seeking judicial review of their penalties and/or discipline. Again, this section does not remove original jurisdiction from Office of the Treasurer-Clerk for lobbyist complaints; it merely provides for an administrative review that would likely reduce the number of matters referred to Circuit Court.

In December 2019, the City Commission adopted changes to section 2-346, which provided for final orders of the Independent Ethics Board to be appealed to Circuit Court. While this is the proper procedure, this language likely belongs within the Ethics Code. Nevertheless, the current language can be expanded to accompany the above changes in section 2-345 regarding the Board's appellate review of penalties and disciplinary actions taken by the Office of the City Treasurer-Clerk against outside lobbyists cited for failure to follow the applicable ordinances.

Again, this proposed language does not usurp any authority from the Office of the City Treasurer-Clerk who will maintain original jurisdiction over lobbyist complaints.

CONCLUSION

If you or your staff have any questions regarding these proposed ordinances and/or request our appearance at a public meeting for discussion and explanation, the Tallahassee Independent Ethics Board will gladly accommodate your wishes.

As always, the Board greatly appreciates this City Commission's commitment to strong ethics and good government. Based on your past actions, the City of Tallahassee continues to lead the state in setting the highest ethical standards in government. We appreciate your dedication and look forward to our continued work together.

Sincerely,

CARLOS A. REY
Chair

Enclosure

cc: Mr. Dwight A. Floyd
Independent Ethics Officer

DRAFT ORDINANCE NO.:

20-ORD-01

1 AN ORDINANCE OF THE CITY OF TALLAHASSEE,
2 FLORIDA; AMENDING SECTION 2-11 OF THE CODE OF
3 ORDINANCES OF THE CITY OF TALLAHASSEE; AMENDING
4 SECTION 2-338 OF THE CODE OF ORDINANCES OF THE CITY
5 OF TALLAHASSEE; AMENDING DEFINITIONS ASSOCIATED
6 WITH LOBBYING; AMENDING SECTION 2-339 OF THE CODE
7 OF ORDINANCES OF THE CITY OF TALLAHASSEE; AMENDING
8 REQUIREMENTS FOR REGISTRATION OF LOBBYISTS;
9 REQUIRING COVERED INDIVIDUALS ENSURE LOBBYISTS ARE
10 REGISTERED; PROVIDING FOR A CONTACT LOG; DELETING
11 SECTION 2-340 OF THE CODE OF ORDINANCES OF THE CITY
12 OF TALLAHASSEE; CREATING SECTION 2-340 OF THE CODE
13 OF ORDINANCES OF THE CITY OF TALLAHASSEE;
14 PROHIBITING CONTINGENCY FEES BY LOBBYISTS; AMENDING
15 SECTION 2-342 OF THE CODE OF ORDINANCES OF THE CITY
16 OF TALLAHASSEE; MANDATING THE CREATION AND
17 MAINTENANCE OF A LOBBYIST REGISTRATION WEBSITE;
18 PROVIDING FOR SEVERABILITY; REPEALING CONFLICTING
19 ORDINANCES; AND PROVIDING AN EFFECTIVE DATE.

20
21 BE IT ENACTED BY THE CITY COMMISSION OF THE CITY OF
22 TALLAHASSEE, FLORIDA:

23
24 SECTION 1. Section 2-338 of the Code of Ordinances of the
25 City of Tallahassee is hereby amended to read as follows:

26
27 ARTICLE VIII. - LOBBYIST REGULATIONS
28 Sec. 2-338. - Definitions.

CODING: Words ~~stricken~~ are ~~deletions~~ underlined are additions.



29 (a) Lobbying means any communication ~~shall mean communications,~~
30 ~~whether written or oral,~~ by all persons, firms, or business
31 entities, acting as a lobbyist as defined by this section
32 ~~outside a duly noticed public meeting or hearing on the record~~
33 ~~with any member or members of the city commission, or any member~~
34 ~~or members of any decision-making body under the jurisdiction~~
35 ~~of the city commission, or any city employee, whereby the~~
36 ~~lobbyist seeks to encourage or influence the passage, defeat,~~
37 ~~modification or repeal of any item which may be presented for~~
38 ~~vote before the city commission, or any decision-making body~~
39 ~~under the jurisdiction of the city commission, or which may be~~
40 ~~presented for consideration by a city employee as a~~
41 ~~recommendation to the city commission or decision-making body.~~

42 (b) Lobbyist means all persons, firms, or business entities
43 employed or retained, whether paid or not, by a principal who,
44 during the time period of the entire decision-making process
45 on such action, decision or recommendation that foreseeably
46 will be heard or reviewed by the city commission or a decision-
47 making body under the jurisdiction of the city charter or city
48 commission, seeks to encourage or influence:

49 (1) Any city commissioner pertaining to the passage, defeat
50 or modification of any ordinance, resolution, action, or
51 decision of the city commission;

52 (2) The city manager or any decision-making body under the
53 jurisdiction of the city charter or city commission
54 pertaining to any action, inaction, decision, or
55 recommendation; or

56 (3) Any employee pertaining to any action, inaction,
57 decision, or recommendation.

58 (c) Lobbyist does not mean:

59 (1) An expert witness who provides only scientific,
60 technical, or other specialized information or testimony in

61 a public meeting, provided that the person identifies the
62 employer, principal, or client at the hearing;

63 (2) Any person who is retained or employed for the purpose of
64 representing an employer, principal, or client only during a
65 publicly noticed quasi-judicial hearing or comprehensive
66 plan hearing, provided that the person identifies the
67 employer, principal, or client at the hearing.

68 (3) Any person who is a resident of the city who only appears
69 as a resident without compensation or reimbursement for the
70 appearance, whether direct, indirect, or contingent, to
71 express support of or opposition to any item;

72 (4) Any person who only appears as a representative of a
73 neighborhood association without compensation or
74 reimbursement for the appearance, whether direct, indirect
75 or contingent, to express support of or opposition to any
76 item, provided that the person identifies the employer,
77 principal, or client at the hearing;

78 (5) Any person who is an unpaid volunteer that lobbies on
79 behalf of a not-for-profit organization under sections
80 501(c)(3) or 501(c)(4) of the Internal Revenue Code Code,
81 provided that the person identifies the organization at the
82 hearing;

83 (6) Any person who only appears as a representative of not-
84 for-profit community-based organization for the purpose of
85 requesting a grant without special compensation or
86 reimbursement for the appearance, provided that the person
87 identifies the employer, principal, or client at the hearing;

88 (7) Any person who is a city employee and only appears in his
89 or her capacity as an employee; or

90 (8) Any person who is an independent contractor of the City
91 of Tallahassee or an entity lobbying on behalf of the City
92 of Tallahassee, and only while acting within that capacity.

93 ~~a person who is employed and receives payment, or who contracts~~
94 ~~for economic consideration, for the purpose of lobbying, or a~~
95 ~~person who is principally employed for governmental affairs by~~
96 ~~another person or governmental entity to lobby on behalf of~~
97 ~~that other person or governmental entity.~~

98 ~~(c) *Lobbying firm* means a business entity, including an~~
99 ~~individual contract lobbyist, that receives or becomes entitled~~
100 ~~to receive any compensation for the purpose of lobbying, where~~
101 ~~any partner, owner, officer, or employee of the business entity~~
102 ~~is a lobbyist.~~

103 (d) *Principal* shall mean a person, firm, corporation, or other
104 legal entity which has employed or retained a lobbyist.

105 (e) *Employee* shall mean all persons employed, whether as an
106 employee or independent contractor, by the City of Tallahassee
107 or any decision-making body under the jurisdiction of the city
108 charter or city commission.

109 (f) *Decision-making body* shall mean any body established by the
110 city charter or the city commission.

111
112 SECTION 2. Section 2-339 of the Code of Ordinances of the
113 City of Tallahassee is hereby amended to read as follows:

114
115 Sec. 2-339. - Registration of lobbyists; contact log;
116 compliance.

117 (a) All lobbyists, as defined herein, shall register with the
118 city treasurer-clerk on an annual basis, including payment of a
119 \$25.00 fee for each principal so represented, prior to engaging
120 in any lobbying. Lobbyists shall register by April 1, 2011, for
121 the period April 1, 2011, to December 31, 2011. Thereafter, the
122 annual period shall be the calendar year. Registration shall be
123 updated to add or withdraw principals before a lobbyist
124 commences lobbying on behalf of any new principal. Each lobbyist
125 shall be required to register on forms prepared by the city

126 treasurer-clerk. The lobbyist shall state under oath his or her
127 name, business address, the name and business address of each
128 principal represented, that the principal has actually retained
129 the lobbyist, the general and specific areas of legislative
130 interest including the issue name or title and/or ordinance
131 number, and the nature and extent of any direct business
132 association or partnership with any current member of the city
133 commission, city employee, or person sitting on a decision-
134 making body. Each lobbying firm may register in the name of such
135 firm, corporation, or legal entity, provided the registration
136 shall list the names of all persons who engage in lobbying as
137 defined in this article. Failure to register, or providing false
138 information in the lobbyist registration form, shall constitute
139 a violation of this article.

140 (b) Covered individuals, as defined by section 2-4, must ensure
141 that lobbyists are properly registered with the city
142 treasurer-clerk prior to any meeting pertaining to any city
143 business. The covered individual must ensure that the
144 registration indicates the subject matter to be discussed.

145 (c) To promote full and complete transparency, lobbyists who
146 lobby a covered individual, as defined by section 2-4, must
147 contemporaneously with the lobbying activity or as soon
148 thereafter as is practicable, but in any event within three
149 (3) business days after the lobbying activity occurs, legibly
150 complete a contact log, on forms prepared by the city
151 treasurer-clerk, which contains the following information:

152 (1) The lobbyist's name;

153 (2) The name of the entity by which the lobbyist is employed;

154 (3) The name of the person or entity for whom or which the
155 lobbyist is lobbying;

156 (4) The name of each covered individual, as defined by
157 section 2-4, lobbied by the lobbyist;

158 (5) The name of each person attending or participating in any

159 portion of the meeting or communication during which the
160 lobbying activity occurred;

161 (6) The date and time of the meeting or other communication
162 during which the lobbying activity occurred;

163 (7) The location of the meeting and mode of communication, as
164 applicable (e.g., in person, by telephone, by email
165 exchange); and

166 (8) The specific subject matter discussed in such meeting or
167 communication.

168 (d) The obligation to complete the contact log referenced in
169 paragraph (c) above applies regardless of the location of the
170 lobbying activity, whether the lobbying activity is directly
171 by the lobbyist or indirectly through an intermediary, and
172 applies whether the activity occurs in person, by telephone,
173 by electronic communication, by video conference, or in
174 writing.

175 (e) The contact log referenced in paragraph (b) above shall be
176 filed for public inspection.

177
178 SECTION 3. Section 2-340 of the Code of Ordinances of the
179 City of Tallahassee is hereby deleted as follows:

180
181 ~~Sec. 2-340. - Exemptions.~~

182 ~~The following persons are not lobbyists as herein defined and~~
183 ~~shall not be required to register as lobbyists or to keep records~~
184 ~~as lobbyists:~~

185 ~~(1) City employees discussing government business;~~

186 ~~(2) Law enforcement personnel conducting an investigation;~~

187 ~~(3) Persons who communicate with board members or employees~~
188 ~~in an individual capacity for the purpose of self-~~
189 ~~representation, or on behalf of a family member, without~~
190 ~~compensation or reimbursement;~~

- 191 ~~(4) Consultants under contract with the city who communicate~~
192 ~~with city commissioners or city employees regarding issues~~
193 ~~related to the scope of services in their contract;~~
- 194 ~~(5) Any government officials or employees who are acting in~~
195 ~~their official capacity or in the normal course of their~~
196 ~~duties, unless they are proposing in a competitive~~
197 ~~procurement, or are government employees principally~~
198 ~~employed for, or whose substantial duties pertain to,~~
199 ~~governmental affairs lobbying;~~
- 200 ~~(6) Persons who make purely factual informational requests to~~
201 ~~a member of the city commission, member of a decision-making~~
202 ~~body, or employee with no intent to affect a decision or~~
203 ~~recommendation on any item; and~~
- 204 ~~(7) Persons or representatives of organizations contacted by~~
205 ~~a city commissioner, member of a decision-making board, or~~
206 ~~employee when the contact is initiated by that city~~
207 ~~commissioner, decision-making board member, or employee in~~
208 ~~his or her official capacity in the normal course of his or~~
209 ~~her duties to obtain factual information only.~~

210

211 SECTION 4. Section 2-340 of the Code of Ordinances of the
212 City of Tallahassee is hereby created as follows:

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214 Sec. 2-340. Contingency fees prohibited.

215 (a) "Contingency fee" means a fee, bonus, commission, or
216 nonmonetary benefit as compensation which is dependent or in
217 any way contingent on the enactment, defeat, modification, or
218 other outcome of any specific legislative action.

219 (b) No person may, in whole or in part, pay, give, or receive,
220 or agree to pay, give, or receive, a contingency fee.

221 (c) Any person who violates this section commits a misdemeanor
222 of the first degree, punishable as provided in F.S. §§ 775.082
223 or 775.083. If such person is a lobbyist, the lobbyist shall

224 forfeit any fee, bonus, commission, or profit received in
225 violation of this section and is subject to the penalties set
226 forth in section 2-246. When the fee, bonus, commission, or
227 profit is nonmonetary, the fair market value of the benefit
228 shall be used in determining the amount to be forfeited. All
229 forfeited benefits collected shall be deposited into the City
230 of Tallahassee General Fund.

231 (d) This section does not apply to any contract providing for
232 compensation by contingency fee which is in existence on the
233 date this ordinance is adopted and which does not provide for
234 compensation by contingency fee for lobbying beyond one (1)
235 year following the adoption of this ordinance.

236 (e) Nothing in this section may be construed to prohibit any
237 salesperson engaging in legitimate city business on behalf of
238 a company from receiving compensation or commission as part of
239 a bona fide contractual arrangement with that company.

241 SECTION 5. Section 2-342 of the Code of Ordinances of the
242 City of Tallahassee is hereby amended to read as follows:

243
244 Sec. 2-342. - Quarterly compensation report; website.

245 (a) Each lobbying firm shall file a compensation report, signed
246 under oath, with the city treasurer-clerk for each calendar quarter
247 during any portion of which such a lobbyist or lobbyist firm was
248 registered under this article to represent a principal
249 (hereinafter "reporting period").

250 (1) Each lobbying firm shall file a quarterly compensation
251 report with the city treasurer-clerk for each calendar
252 quarter during any portion of which the lobbyist or one or
253 more of the firm's lobbyists were registered to represent a
254 principal. The report shall include the:

255 a. Full name, business address, and telephone number of
256 the lobbying firm;

- 257 b. Name of each of the firm's lobbyists; and
258 c. Total compensation provided or owed to the lobbying firm
259 from all principals for the reporting period, reported in
260 one of the following categories: \$0.00; \$1.00 to
261 \$49,999.00; \$50,000.00 to \$99,999.00; \$100,000.00 to
262 \$249,999.00; \$250,000.00 to \$499,999.00; \$500,000.00 to
263 \$999,999.00; \$1,000,000.00 or more.

264 (2) For each principal represented by one or more of the
265 firm's lobbyists, the quarterly compensation report shall
266 also include the:

267 a. Full name, business address, and telephone number of
268 the principal; and

269 b. Total compensation provided or owed to the lobbying firm
270 for the reporting period from such principal, reported in
271 one of the following categories: \$0.00; \$1.00 to
272 \$9,999.00; \$10,000.00 to \$19,999.00; \$20,000.00 to
273 \$29,999.00; \$30,000.00 to \$39,999.00; \$40,000.00 to
274 \$49,999.00; or \$50,000.00 or more. If the category
275 "\$50,000.00 or more" is selected, the specific dollar
276 amount of compensation must be reported, rounded up or
277 down to the nearest \$1,000.00.

278 (3) The quarterly compensation reports shall be filed no later
279 than 30 days after the end of each reporting period. The
280 four reporting periods are from January 1 through March 31,
281 April 1 through June 30, July 1 through September 30, and
282 October 1 through December 31, respectively. The quarterly
283 compensation reports shall be filed in the form provided by
284 the city treasurer-clerk.

285 **(b) The city treasurer-clerk shall be responsible for**
286 **maintaining an online system for registration and compensation**
287 **reports which shall be available to the public through the**
288 **city's website.**

289

290 SECTION 6. Severability. The provisions of this Ordinance are
291 declared to be severable, and if any section, sentence, clause, or
292 phrase of this Ordinance shall, for any reason, be held to be
293 invalid or unconstitutional, such decision shall not affect the
294 validity of the remaining sections, sentences, clauses, and
295 phrases of this Ordinance, but shall remain in effect, it being
296 the legislative intent that this Ordinance shall stand
297 notwithstanding the invalidity of any part.

298
299 SECTION 7. Repeal of conflicting ordinances. Any and all
300 ordinances or parts of ordinances in conflict herewith are hereby
301 repealed to the extent of such conflict.

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303 SECTION 8. Effective Date. This Ordinance shall take effect
304 immediately upon its passage.

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DRAFT ORDINANCE NO.:
20-ORD-02

DRAFT ORDINANCE

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2
3 AN ORDINANCE OF THE CITY OF TALLAHASSEE,
4 FLORIDA; AMENDING SECTION 61 OF THE MUNICIPAL
5 CHARTER OF THE CITY OF TALLAHASSEE; EXPANDING THE
6 JURISDICTION OF THE INDEPENDENT ETHICS BOARD; AND
7 PROVIDING AN EFFECTIVE DATE BEING SUBJECT TO THE
8 APPROVAL BY THE ELECTORS OF THE CITY OF TALLHASSEE.
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10 BE IT ENACTED BY THE CITY COMMISSION OF THE CITY OF
11 TALLAHASSEE, FLORIDA:
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13 SECTION 1. Section 61 of the Municipal Charter of the City of
14 Tallahassee is hereby amended to read as follows:
15

16 Sec. 61. - Ethics Code and Ethics Board to be established.

17 a. Ethics Code. The City Commission shall, within six (6) months
18 of the enactment of this charter provision, enact an ethics, or
19 conflicts of interest, code with jurisdiction over the officers
20 and employees of the City of Tallahassee, whether elected or
21 appointed, paid or unpaid, ~~and~~ over the members, officers and
22 employees of any boards, commissions, or committees thereof,
23 and over lobbyists appearing before the city. The ethics code
24 may, as allowed by law, supplement state ethics laws.

25 b. Ethics Board. There is hereby created an independent,
26 appointed, ongoing citizens Ethics Board of seven members, whose
27 membership shall consist of registered City of Tallahassee
28 electors who have appropriate subject matter expertise none of
29 whom may be an officer or employee of local government. Each of

CODING: Words ~~stricken~~ are underlined are additions.



30 the following persons or entities shall make an appointment of
31 one of five Board members to wit: the City Commission, the
32 Public Defender for the Second Judicial Circuit, the State
33 Attorney for the Second Judicial Circuit, the President of
34 Florida State University and the President of Florida A&M
35 University. Two Board members shall be appointed by the Ethics
36 Board. Initial appointments shall be made within 90 days of the
37 approval of this Charter provision and all subsequent
38 appointments shall be made within 60 days of a vacancy
39 occurring. The City Commission shall provide by ordinance for
40 the length and staggering of the terms of Ethics Board members.
41

42 The Ethics Board shall: (i) assist the City Commission in the
43 development of the ethics code; (ii) adopt bylaws and due process
44 procedures for the administration of the Ethics Board; (iii) manage
45 a citywide ethics hotline for receipt of allegations of local
46 corruption, fraud, waste, mismanagement, campaign finance and
47 ethics violations; (iv) manage and coordinate the mandatory
48 training of local officials, officers, employees, and board
49 members in state and local ethics; (v) have the authority to refer
50 ethics and corruption matters to appropriate enforcement agencies;
51 (vi) recommend proposed ordinances, resolutions, or charter
52 amendments to the City Commission in all areas of ethics and
53 corruption, including but not limited to: conflicts of interests,
54 financial disclosure, voting conflicts, hotline policies, ethics
55 education, ethics in procurement, campaign ethics and financing,
56 and lobbying; such legislative proposals shall be filed with and
57 considered by the City Commission; (vii) have the authority to
58 investigate complaints and to levy those civil penalties as may be
59 authorized by the City Commission for violations of the City's
60 ethics code; ~~and~~ (vii) review penalties assessed and disciplinary
61 action taken against lobbyists appearing before the city; and
62 (viii) employ staff serving in the Ethics Office. A structure shall

63 be established for the Ethics Board that ensures independence and
64 impartiality, and provides for the maximum practicable input from
65 citizens and community organizations. The Ethics Board shall be
66 funded by the City Commission within its discretionary budgetary
67 authority at a level sufficient to discharge the Board's
68 responsibilities.

69
70 SECTION 2. This proposed amendment to the Municipal Charter
71 of the City of Tallahassee shall be submitted to a vote of the
72 electors of the City of Tallahassee for adoption at the next
73 general election with the following question.

74
75 JURISDICTION OF INDEPENDENT ETHICS BOARD

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77 Shall the Charter be amended to expand the
78 jurisdiction of the independent ethics board to
79 include lobbyists representing clients before the
80 city?

- 81
82 YES
83 NO

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86 SECTION 3. Effective Date. This charter amendment shall take
87 effect upon adoption by the electors of the City of Tallahassee.

DRAFT ORDINANCE NO.:
20-ORD-03

1 AN ORDINANCE OF THE CITY OF TALLAHASSEE,
2 FLORIDA; AMENDING SECTION 2-11 OF THE CODE OF
3 ORDINANCES OF THE CITY OF TALLAHASSEE; ESTABLISHING
4 ROLE OF THE ETHICS OFFICER IN RECEIVING OR
5 INITIATING COMPLAINTS AGAINST LOBBYISTS;
6 ESTABLISHING JURISDICTION TO THE ETHICS BOARD TO
7 HEAR APPEALS OF PENALTIES ASSESSED AGAINST
8 LOBBYISTS FOR VIOLATIONS OF ARTICLE VIII; AMENDING
9 SECTION 2-345 OF THE CODE OF ORDINANCES OF THE CITY
10 OF TALLAHASSEE; ESTABLISHING APPELLATE
11 JURISDICTION TO THE ETHICS BOARD FOR LOBBYIST
12 VIOLATION PENALTIES; AMENDING SECTION 2-346 OF THE
13 CODE OF ORDINANCES OF THE CITY OF TALLAHASSEE;
14 PROVIDING FOR REVIEW OF PENALTIES ASSESSED AGAINST
15 LOBBYISTS; PROVIDING FOR SEVERABILITY; REPEALING
16 CONFLICTING ORDINANCES; AND PROVIDING AN EFFECTIVE
17 DATE.

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19 BE IT ENACTED BY THE CITY COMMISSION OF THE CITY OF
20 TALLAHASSEE, FLORIDA:

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22 SECTION 1. Section 2-11 of the Code of Ordinances of the City
23 of Tallahassee is hereby amended to read as follows:

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25 Sec. 2-11. - Disclosure requirements for lobbyists, jurisdiction
26 to adjudicate violations ~~representing the city.~~

27 (a) Any lobbyist or lobbying firm engaged to lobby at the state
28 or federal level on behalf of the city shall disclose quarterly
29 a complete list of their clients to the city's treasurer-clerk.

CODING: Words ~~stricken~~ are underlined are additions.



30 If a conflict of interest is identified, the city will address
31 the conflict. The treasurer-clerk shall develop a procedure
32 whereby the city may waive any identified conflicts of interest.

33 ~~(b)~~ Information on the city's lobbyists shall be available on
34 the city web page.

35 (b) The ethics officer shall have authority, consistent with
36 section 2-345, to serve as the point for contact for those
37 registering a complaint against a lobbyist doing business
38 before the city and to initiate said complaints through the
39 office of the city treasurer-clerk.

40 (c) The ethics board shall have jurisdiction to adjudicate
41 appeals of penalties assessed against lobbyists, as defined in
42 section 2-238, for violations of requirements established under
43 Article VIII.

44
45 SECTION 2. Section 2-345 of the Code of Ordinances of the
46 City of Tallahassee is hereby amended to read as follows:

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48 Sec. 2-345. - Compliance; penalties.

49 (a) The city treasurer-clerk shall monitor lobbyists for
50 compliance with this section and shall develop procedures for
51 suspension of lobbyists until compliance is attained. The city
52 treasurer-clerk will alert the city commission to any instances
53 of non-compliance and will inform the city commission of any
54 need to institute progressive penalties for repeat offenders.
55 The ethics officer may serve as a point of contact for a
56 complaint regarding a failure of a lobbyist to register and may
57 initiate complaints with the city treasurer-clerk but shall
58 have no oversight role regarding registration. The ethics board
59 shall have jurisdiction to adjudicate appeals of penalties
60 assessed and disciplinary action taken by the city treasurer-
61 clerk.

62 (b) The penalties for an intentional violation of this article
63 shall be enforced as a civil violation under section 1-7 of
64 this Code. There shall be a fine of \$1,000.00 for the first
65 violation, a fine of \$2,500.00 for a second violation within
66 any three-year period, a fine of \$5,000.00 for a third violation
67 within any three-year period, and a suspension from lobbying
68 the city for a period not to exceed three years for a fourth
69 violation within any three-year period.

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71 SECTION 3. Section 2-346 of the Code of Ordinances of the
72 City of Tallahassee is hereby amended to read as follows:

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74 Sec. 2-346. - Review of penalty and final order.

75 (a) Any penalty assessed or disciplinary action taken under
76 this article by the city treasurer-clerk may be reviewed by the
77 ethics board upon a written request for hearing filed with the
78 ethics officer within 20 days of the assessment of the penalty.

79 (b) Any final order of the ethics board upholding the
80 assessment of ~~imposing~~ civil penalties or imposition of
81 disciplinary action as provided for in section 2-345 ~~2-16~~ of this
82 Code may be reviewed by the circuit court within 30 days of
83 issuance of the order in the manner as authorized for review of
84 quasi-judicial board decisions

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86 SECTION 4. Severability. The provisions of this Ordinance are
87 declared to be severable, and if any section, sentence, clause, or
88 phrase of this Ordinance shall, for any reason, be held to be
89 invalid or unconstitutional, such decision shall not affect the
90 validity of the remaining sections, sentences, clauses, and
91 phrases of this Ordinance, but shall remain in effect, it being
92 the legislative intent that this Ordinance shall stand
93 notwithstanding the invalidity of any part.

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95 SECTION 5. Repeal of conflicting ordinances. Any and all
96 ordinances or parts of ordinances in conflict herewith are hereby
97 repealed to the extent of such conflict.

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99 SECTION 6. Effective Date. This Ordinance shall take effect
100 immediately upon its passage.

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