

**CITY OF SAN ANTONIO
CITY ATTORNEY'S OFFICE
INTERDEPARTMENTAL CORRESPONDENCE**

TO: Mayor and City Council

FROM: Andrew Martin, City Attorney

COPIES TO: Terry M. Brechtel, City Manager

SUBJECT: Amendments to the City of San Antonio Ethics Code
Re: Fees for Lobbyist Registration

DATE: January 15, 2004

Summary

On December 18, 2003, the City Council adopted Ordinance No. 98639 amending the lobbying provisions of the Ethics Code. Specifically, the definitions of the terms "municipal question," "compensation" and "expenditure" were revised to apply the general provisions of the lobbying regulations to individuals or entities engaged in lobbying activities related to zoning or platting matters.

This ordinance further revises the lobbying provisions to lower the annual registration fee for lobbyists.

Procedural Background

On December 18, 2003, the City Council adopted Ordinance 98639, which amended the Ethics Code to apply the general provisions of the lobbying regulations to individuals or entities lobbying on matters related to zoning or platting. During consideration of this ordinance, councilmembers inquired about the annual lobbyist registration fee compared to lobbyist registration fees imposed by the state and other municipalities. A matrix setting out comparative registration fees and procedures is attached. **Attachment 1.**

This ordinance amends the appropriate fee ordinance adopted in connection with the budget to lower the annual registration fee for lobbyists.

Summary of Proposed Amendments to Lobbying Provisions of the Ethics Code

Part E, Section 4(f) of the Ethics Code currently provides:

At the time of initial or subsequent annual registration with respect to a client, a registrant shall pay to the city, and the City Clerk shall collect, a fee in an amount to be determined by the City Council. All lobbyist registration fees shall be deposited into a

separate account within the general fund, which account shall be used to offset the costs of administering the city's lobbying ordinance and the cost of handling disclosure filings.

The deadline for the annual registration and payment of the fee was set for January 31. Agents or employees of a lobbying firm or other registrant are exempt from individual registration, provided the employer discloses their lobbying activities in registration and activity reports. Ethics Code Part E, Section 3(g).

In Section 4 of Ordinance No. 88874, the City Council set the registration fee at \$1,000. A fee of \$300 had been initially proposed, to be charged for each municipal question on which lobbyist contacted a public official. The council decided upon a fee of \$1000 to be charged regardless of the number of clients or issues.

By this ordinance, the City Council may establish a reduced registration fee more consistent with fees charged by the State of Texas and other major Texas municipalities. It may also consider requiring individual registration by agents and employees of lobbyist firms which is also consistent with the regulations in these other jurisdictions. A fiscal analysis and recommendation follows below.

Financial Impact

The current annual registration fee for lobbyists is \$1000. This ordinance would lower the fee in accordance with registration rates charged by the state and other municipalities.

As noted, the registration fee was established to offset costs to the City Clerk's Office to process and maintain lobbyist registrations and activity reports. The approximate funding for a clerk position fulfilling these duties is \$58,000.00. The clerk assigned to this work performs other ethics and related functions. The City Clerk's Office lists the following in its responsibilities to carry out this function:

Initial Registration:

1. Process all necessary paperwork for the initial registration
2. Prepare receipt of monies collected
3. Enter all information into the lobbyists database
4. Advise lobbyists of quarterly requirements

Annual Reports

1. Prepare new folders
2. Accept and prepare receipts for annual fee

Quarterly Reports (Due: January, April, July, October)

1. Notarize and date stamp each report
2. Enter dates reports received into database by lobbyists (14 total for YR 2003) for individual clients (530 total) x 4 quarterly reports (2,176 entries for YR 2003.)

Terminations/New Clients/Amendments

1. Process client terminations – file paperwork in lobbyists' files and input termination information into database
2. Process new clients – file paperwork in lobbyists' files and input new clients' information into database
3. Process amendments – file paperwork in lobbyists' files and input amendments into database

Reduction of the registration fee may reduce the revenue collected to offset the cost to the City Clerk's Office to carry out these duties. The annual registration fees collected annually fluctuate at about \$22,000.00. Conversely, though, reduction of the registration fee and the recent amendment to the definition of "municipal question" under Ordinance No. 98639 may result in the increase of the number of registrants to balance out some of this loss. However, this increase is difficult to estimate.

Recommendation

As noted in the attached matrix, the State of Texas, and the Cities of Houston and Austin impose lower registration fees for lobbyists than the City of San Antonio. Unlike San Antonio, though, these jurisdictions also require each person engaged in lobbying activity to file an individual registration and to pay the annual registration fee. This applies even if the individual engaged in lobbying is an agent or employee of another registrant.

The Council has indicated an interest in reducing the registration fee to encourage compliance and participation in the lobbying registration process. To balance this objective and the budgetary needs of the City Clerk's Office in managing the considerable volume of lobbyist registrations and activity reports, the City Attorney's Office recommends a reduction in the fee to \$300 and an amendment to the Ethics Code to require individual lobbyists to register.

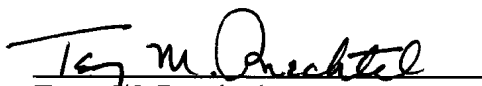
The lower fee may increase the number of registrants who previously declined to lobby on behalf of clients because the initial fee of \$1000 was prohibitive to individuals or smaller organizations with a small client base. For firms or organizations with a larger client base, the total annual fees paid by the firm as a whole may be lower, approximately the same or slightly more, depending on the number of employees or agents engaged in lobbying activity.

The reduction of the annual registration fee in conjunction with amending the Ethics Code to require individual registration will best balance the interests of encouraging compliance and participation and the fiscal requirements of the City Clerk's Office.



Andrew Martin
City Attorney

APPROVED:



Terry M. Brechtel
City Manager

Attachment 1 Lobbyist Fee Matrix

Jurisdiction	Fee	Registrant	Registrations Required
San Antonio	\$1000/yr (annual fee per registrant, not per client)	Individual or Entity that is compensated or expends money to lobby must register.	Registrant must file separate registration form for each client Agent or employee of registrant <u>not</u> req'd to register if registrant reports agent's activities. Client who expends money to retain lobbyist also not req'd to register if lobbyist is a registrant.
State of Texas	\$100/yr for Section 501(c)(3) or (4) entities \$300/yr for any other lobbyist. (annual fee per registrant, not per client)	A person or entity that receives more than \$1000 in a calendar year as compensation for lobbying must register, unless lobbying constitutes no more than 5% of person's compensated time during a calendar quarter. A person or entity that expends more than \$500 in a calendar year must register	Registrant must list employees and agents in registration. Agent or employee of registrant also req'd to file own registration if they meet threshold. Entity may avoid registration if all agents register and report all applicable activities. Client who expends money to retain lobbyist also not req'd to register if lobbyist is a registrant.

Jurisdiction	Fee	Registrant	Registrations Required
Houston	<p>\$20/yr per registration form. Registrant may list multiple clients on single form for flat fee of \$20.</p> <p>If additional forms filed to rpt new client, additional \$20 fee req'd.</p>	<p>Individual or entity that receives or expects to receive \$200 or more in calendar quarter</p> <p>Individual or entity that expends or expects to expend more than \$200 in calendar quarter</p>	<p>Person or entity must report agents and employees as part of registration.</p> <p>Agents and employees also required to file individual registration and lobbying reports if they meet the threshold.</p> <p>Client who expends money to retain lobbyist not req'd to register if lobbyist is a registrant.</p>
Austin	<p>\$300/yr (annual fee per registrant, not per client)</p>	<p>Individual or entity that receives or expects to receive \$200 or more in calendar quarter</p> <p>Individual or entity that expends or expects to expend more than \$200 in calendar quarter</p>	<p>Agents and employees also required to file individual registration and lobbying reports if they meet the threshold.</p> <p>Client who expends money to retain lobbyist not req'd to register if lobbyist is a registrant.</p>
Dallas, Fort Worth	No lobbying regulations		