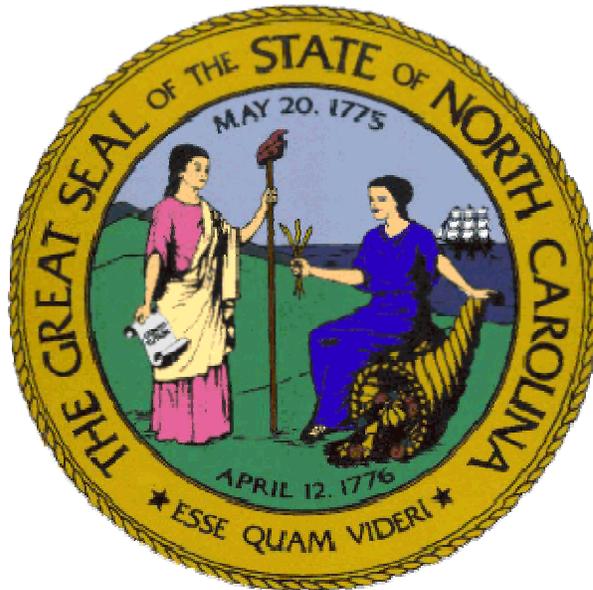


OSBM

**Staffing Analysis
Lobbying Compliance Division
Department of the Secretary of State**

Management Study

January 2008



Prepared By:

Office of State Budget and Management

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INTRODUCTION

Scope of Study

In a September 11, 2006 letter to the Department of the Secretary of State¹, the State Budget Director committed the Office of State Budget and Management (OSBM) to conduct a staffing analysis of the Lobbying Compliance Division² to determine the appropriate staffing requirements based on the workload generated by the newly enacted Lobbying Law (G.S. §120C), effective January 1, 2007 and amended by S. L. 2007-347 and S. L. 2007-348.

Methodology

In order to conduct the staffing analysis, the OSBM study team performed the following tasks:

- Examined and analyzed the organizational structure of the Division,
- Analyzed employees time and resource allocation worksheets completed by management and staff,
- Interviewed all Division employees,
- Reviewed the statutory requirements of the North Carolina Lobbying Law, and
- Analyzed various other data.

BACKGROUND

During the 2006 legislative session the Lobbying Compliance Division was created by the Lobbying Law, which was enacted on August 4, 2006. Prior to this legislation, a portion of the current duties (registration and reporting) was performed by the Certification and Filings Unit of the Secretary of State. During the 2007 Legislative session, S. L. 2007-347 (HB1110) and S. L. 2007-348 (HB1111) were passed which amended the Lobbying Law to require the Division to review each advisory opinion issued by the Commission and apply the decisions of each opinion to the overall lobbying community, especially in the areas of registration and expense reporting.

The Secretary of State is required to implement and enforce some of the requirements of the Lobbying Law with other requirements being implemented and enforced by the State Ethics Commission. The primary purpose of the Lobbying Law is to increase public confidence in the operation of the legislative and executive branches of government by providing for additional transparency of the legislative and executive processes. The Division's primary purpose is to administer the Lobbying Law and the rules related to registering, reporting, and investigating lobbyists, lobbyist principals, solicitors, and liaisons, and others who are required to report.³

The Division is also required to develop rules, orders, and forms as necessary to administer the provision of lobbying registration procedures, reporting of reportable expenditures⁴, and miscellaneous reportable expenditures made by persons exempted from the Lobbying Law. Other duties of the Division include providing access to the registrations and principal authorizations and the expense reports filed with the Division in an electronic and searchable format. Further, the Division is required to investigate all civil and

¹ Hereafter, the Department of the Secretary of State will be referred to as the "Secretary of State".

² Hereafter, the Lobbying Compliance Division of the Secretary of State will be referred to as "the Division".

³ Hereafter, "lobbyist principal" will be referred to as "principal". Lobbyist principals include individuals, organizations, associations, or businesses. Solicitors are persons who solicit members of the public to communicate directly with or contact one or more designated individuals for the purpose of influencing or attempting to influence legislative or executive action to further the solicitors' position. Liaisons are any State employees or officers whose principal duties are set forth in that person's job description, include lobbying designated individuals.

⁴ Reportable expenditures are anything of value given to a designated individual, including expenses related to transportation, entertainment, food and beverage, meeting and events, gifts, and a sundry of other expenses.

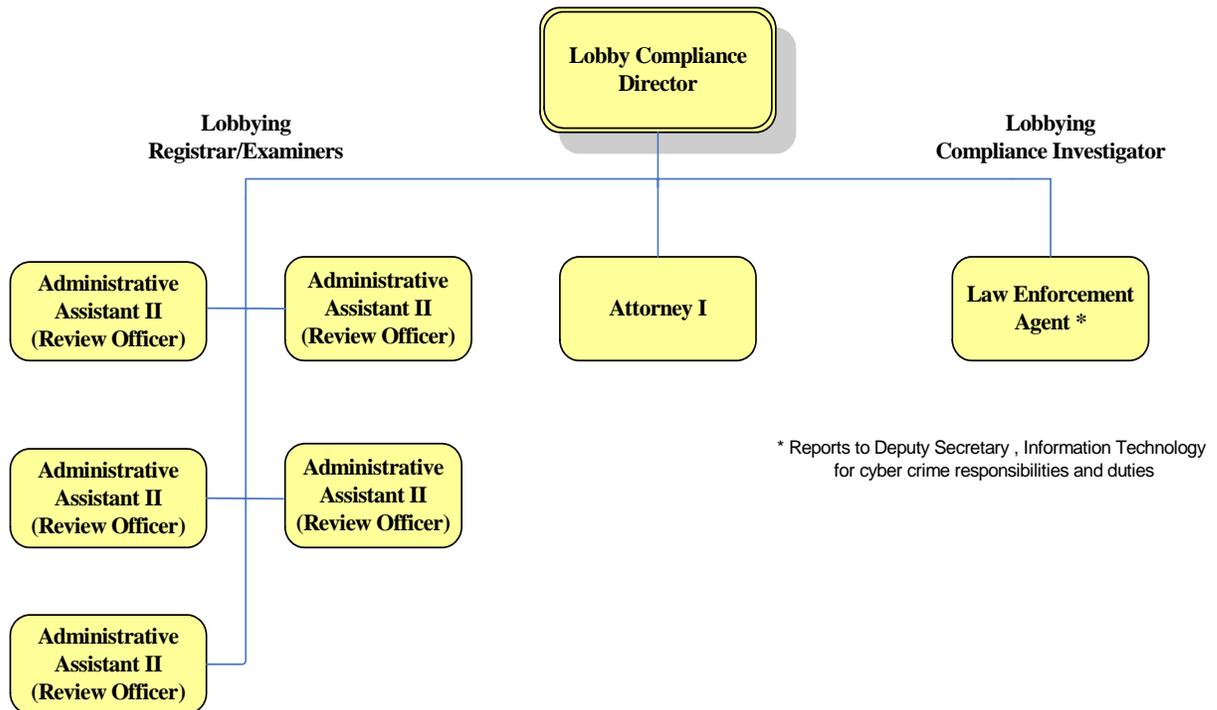
criminal violations that arise out of Articles 2, 4, and 8 of the Lobbying Law, and imposes civil penalty, if necessary.

Organizational Structure and Program Process

The Division presently employs eight persons to administer the Lobbying Law, including: a Division Director; an Attorney; a Law Enforcement Agent; and, five Administrative Assistants (Review Officers). These positions were created in October 2006 in advance of the January 1, 2007 effective date of the Lobbying Law. Exhibit 1 depicts the organizational structure of the Division.

Exhibit 1

LOBBYING COMPLIANCE DIVISION



Source: The Lobbying Compliance Division of the Secretary of State (November 1, 2007)

The primary duties and responsibilities of the Division’s staff are to:

1. Develop rules, forms, and policies and procedures to administer the Lobbying Law.
2. Perform systematic reviews of reports submitted by lobbyists, principals, solicitors, liaisons, and others,
3. Develop and maintain a database containing lobbyist and principals,
4. Investigate and enforce violations of the Lobbying Law, and
5. Develop directory publications.

The staff also performs a number of other duties related to the overall operation of the Division, including answering telephone calls, responding to e-mail inquiries, managing the office, responding to written correspondence, and providing customer service for walk-in clients. Table 1 on pages 3 and 4 shows the duties and responsibilities performed by the Division’s staff during the first 8 months of 2007 and brief

descriptions of the staff's duties and responsibilities. However, these descriptions are not based on measurable service statements of OSBM's Results Based Budgeting process.

Table 1

Duties and Responsibilities of the Staff of the Lobbying Compliance Division

Duties/Responsibilities	Description	FTE ^a
Registration:		
Process	Open mail; apply administrative rules to determine filed and received dates; stamp with filed and received dates; copy as needed for scanning; filing in files; verify correct amount on all checks for registrations and penalty fees; log all checks; prepare cover sheets and scan forms and checks; prepare cash management reports and checks for processing by cash management unit in compliance with Departmental fiscal controls; enter and verify indexing data; commit to the database and to the website; and prepare file folders for new registrations.	.30
Analysis (Review phases one and two)	Review lobbyist, principal, solicitor and liaison registrations for completeness and compliance, receipt of accompanying fees; retrieve files from archives for public records and research requests.	.36
Customer Service - Review Officers	Answer the telephone; assist clients with questions regarding forms and filing dates; retrieve files for customer service issues; contact registrants related to fee payment and registration form issues; provide e-mail notices to all registrants; provide notices of form or policy changes; grant registration fee waivers or reductions for non-profit entities; and publish quarterly newsletters.	.26
Customer Service - Reception	Provide forms to walk-in customers, direct phone calls to the appropriate personnel, data entry, file documents in appropriate folders, make copies for registrants and for Division folders, accept payment for registration fees.	.30
Late Filing Fee Enforcement	Determine violation; send out letters, direct registration information to the investigator, attorney, and director; notify late filers and collect late filing fees; send certified e-mail; and call filers to remind them of their outstanding fees.	.09
Legal/Supervisory	Conduct enforcement analysis with regard to registration; sending out letters to request information; interviewing witnesses and/or registrants; meet with director regarding enforcement strategies.	.35
Reporting:		
Process	Open mail, determine file and received date, scan forms and correspondence, enter data and commit to the web, complete expense detailing and commit to database, copy as needed, and file documents.	.45
Analysis (Review phases one and two)	Insure compliance, such as all the blanks are completed and proper amounts of fees are paid, and review of the expenditure amounts entered on the reports to determine if they add up correctly.	.46
Customer Service - Review Officers	Contact filers who have an incomplete report; follow up on filers who have made a mistake on their report; call all electronic filers to insure that they provide the original within the time allotted so that the filing is not late.	.37
Customer Service - Reception	Provide forms to walk-ins, direct phone calls to the appropriate personnel, data entry, file documents in appropriate folders, making copies for registrants and for Division folders, directing the walk-in or appointments who have a customer service issue to the appropriate reviewer for customer service assistance.	.30
Late Filing Fees Enforcement	Calculate late fees; review calculation of late fees; review waiver or excuse requests, forward contested cases to Department of Justice attorney; prepare file for any trials.	.64
Legal/Supervisory	Analyze reporting to determine enforcement action; send out letters to request information; interview witnesses and/or reporters; meet with director regarding enforcement strategies; serve as investigation supervision.	.55
Directory Publication:		
Generating and Proofreading	Print the directory and edit for accuracy of lobbyists, principals, and liaisons information; act as liaison between publication department and lobbying compliance division for printing.	.20
E-Publication to Public Servants	Check the Ethics Commission website list of covered persons to determine additions and deletions to the list of lobbyist, principals, and liaison; contact ethics liaisons regarding the publication by e-mail of the directory; review e-mail responses after each publication to update e-mail publication list of about 3,000.	.20
Administrative:		
Rules Drafting/Hearings/Related Meetings	Draft rules and amend rules; prepare rules for public hearings and hearings before the Rules Review Commission; work with internal, legislative, Ethics Commission, and Rules Review Commission staffs regarding rules text; assess policies and procedures as criminal and case laws change; and coordinate with other law enforcement agencies in joint investigations.	.28
Forms Development and Drafting	Review and analyze legislation and draft forms to meet statutory and administrative rule requirements.	.20
Law Enforcement Policy Drafting/Related Meetings	Review the Department and Division rules and policies for all law enforcement staff.	.13
Work Plan/IT Interface/QC/Office Organization	Develop, monitor and modify work plan, systems, procedures, space utilization to meet the demands with best use of available staff and furnishings, equipment to maintain quality and efficiency of work flow; interface and troubleshoot with IT Department to integrate new Division forms and indexing needs into Knowledge Based database.	.17
Compilation Report	Review and document the data to create the compilation report; proof report for accuracy.	.39
Training/Staff Meetings	Discuss priorities, assign duties, explain new Knowledge Based functions, reassess and modify procedures, communicate Department wide goals, administrative and personnel information.	.48
Staff Interviews/Reference and Background Checks	Interview staff, check and talk to references, review background checks, make offers, transition new staff into the administration.	.03
Recordkeeping (Timesheets, Phone and Fax Logs)	Record timesheets, review timesheets, approve time, record phone calls from customers, record faxes sent and faxes received.	.10
Office Moves	Assess available temporary space, work with the architect to renovate space on the 3rd floor, review places, purchase furniture from surplus and from vendors, select furniture, file cabinets, computers, attendant office equipment, and move all items, equipment, furniture, and file folders to operate the Division.	.08

Table 1 cont.

Duties and Responsibilities of the Staff of the Lobbying Compliance Division

Duties/Responsibilities	Description	FTE ^a
Procurement, Maintenance and Inventory	Assess office supply needs and order supplies to operate the Division; maintain statutorily required inventory lists and provide to Administrative Division of Department.	.13
Media Contact	Provide information to media upon request; prepare documents for public records requests; research archives to provide information.	.05
Monitoring Legislation	Monitor legislation regarding lobbying and ethics to determine if any procedural, administration, or forms need to be added or modified.	.04
Nonrecurring Special Projects	Perform archival research when a specific question or issue arises to provide necessary information to upper management, media, legislative staff, or other interested parties.	.18
Security Evaluations	Evaluate security for the Division and the Department	.02
Vehicle Maintenance	Maintain vehicle logs, vehicle maintenance per Department of Administration requirements.	.02
Complaints and Investigations:		
Legal	Assess evidence, witness information, request documentation, and other information to determine whether a violation exists and whether to refer the matter to the Attorney General; Assess evidence and witnesses and prepare witnesses to testify before Office of Administration Hearings and District or Superior Court.	.20
Investigative	Review documents, interview witnesses, request additional documents, discuss with the legal team for further direction regarding investigations; assess and review the evidence and the law to determine the next appropriate steps-closure, further investigation, referral to other state or local agencies, and referral to the Wake County District Attorney.	.67
Totals		8.00

^a Full Time Equivalent is based on staff estimates for 8 months - January 1 through August 31, 2007

Source: Lobbying Compliance Division's staff activities for first 8 months of 2007.

The staff identified a number of additional duties and responsibilities that the division should be performing, but none of the staff's time had been expended toward these duties and responsibilities as of August 31, 2007. Table 2 identifies these additional duties and responsibilities and provides a brief description of each. These duty and responsibility descriptions are also not based on measurable service statements as required by OSBM's Result Based Budgeting process.

Table 2

Additional Duties and Responsibilities of the Staff of the Lobbying Compliance Division

Duties/Responsibilities	Description
Analysis	Analyze the advisory opinions of the Ethics Commission to determine whether or not administration of the Act. Secretary of State's rules or policies need to be modified in accordance with the advisory opinions.
Implementation	Implement any necessary changes and modifications as a result of the advisory opinion.
Enforcement	Enforce any violations as a result of any advisory opinion.
Education of Staff/Registrants	Educate staff regarding any changes as a result of the advisory opinion, and insure that as to the Lobbying Act only, the regulated community understands its duties in relationship to the Secretary of State's obligations under the Lobbying Act.
Compliance Reviews (Review phases three and four)	Examine and compare monthly reports to quarterly reports to ensure complete disclosure and comparing the lobbyist's report to the principal and vice versa for consistency and complete disclosure. Examine all of the same event filings to determine consistency of calculation of expenditures of filing with the entire event on every quarter or monthly report; fourth stage requires the filer to provide the supporting documentation for the information entered on the reports. This may require site visits by the review officers and should occur after the review officers have received and fully processed the quarterly reports, and after the review officers have expense detailed the reports, indexed the information, and verified its accuracy.
Reviewing filing for supporting documentation needed	Request additional documentation for reviews including supporting documentation and method of calculation of expenses.
Requesting production of additional documents	Draft letters, meet with internal investigative team to determine what additional information is necessary.
Meetings with filers	Interview filers and filers' staff, examine documents on site.
Analysis of supporting documentation	Review supporting documentation to determine whether it is consistent with filers' reports or registrations.
Referral to Investigator/Lobbying Attorney	Conduct a preliminary assessment to determine whether there is an existing violation to refer to the Investigator and Lobbying Attorney.
Litigation Preparation	Interview witnesses; assess the strength and weaknesses of any litigation; and prepare witnesses, exhibits, documents, and legal arguments for the District Attorney in criminal matters and the Department of Justice for civil matters.

Source: Lobbying Compliance Division's staff activities for first 8 months of 2007.

Registration of Lobbyists and Principals

A lobbyist is any individual that represents a principal, and may be directly employed by the principal or who contracts with the principal to lobby on their behalf. Lobbyists receive compensation for the purpose of lobbying, contract for economic consideration for the purpose of lobbying, or are employed by a principal with a significant part of their duties being related to lobbying. A principal is the person, organization, or business that a lobbyist represents.

Lobbyists, principals, liaisons, solicitors and others, who are required to file various reports with the Division, must adhere to the reporting requirements as outlined in the Lobbying Law. Table 3 shows the types of filings that are required from each group and the conditions under which the filings must be submitted along with any applicable fees.

Table 3

Filing Requirements for Designated Persons under the Lobbying Law

Filer	Type of Filing	Frequency	Condition	Fee
Lobbyist	Registration	Annually	Within one business day of engaging in lobbying activities.	\$100 (per registration)
	Amendment	Per Occurrence	Within 10 business days of occurrence.	
	Expense Report	Monthly	Due 10 days after the end of the month for any month in which the lobbyist incurs reportable expenditures while the General Assembly is in session.	
		Quarterly	Due 10 days after the reporting period regardless of whether reportable expenditures are incurred.	
Principal	Authorization Statement	Annually	Within 10 business days after lobbyist's registration.	\$100 (with 1st statement)
	Amendment	Per Occurrence	Within 10 business days of occurrence.	
	Expense Report	Monthly	Due 10 days after the end of the month for any month in which the principal incurs reportable expenditures while the General Assembly is in session.	
		Quarterly	Due 10 days after the reporting period regardless of whether reportable expenditures are incurred.	
Liaison	Registration	Annually	Within one business day of engaging in lobbying activities.	\$0
	Amendment	Per Occurrence	Within 10 business days of occurrence.	
	Expense Report	Monthly	Due 10 days after the end of the month for any month in which the liaison incurs reportable expenditures while the General Assembly is in session.	
		Quarterly	Due 10 days after the reporting period regardless of whether reportable expenditures are incurred.	
Solicitor	Registration	Annually	Within 10 days of incurring expenditures when those expenditures exceeds \$3,000 during a 90 day period.	\$0
	Expense Report	Monthly	Not Applicable	
		Quarterly	Due 10 days after the reporting period regardless of whether reportable expenditures are incurred.	
Others ^a	Registration	Not Applicable	Not Applicable	\$0
	Expense Report	When it occurs	If a designated individual accepts a reportable expenditure with a total value of over two hundred dollars per calendar quarter and/or is outside North Carolina at the time of acceptance; or if a designated individual accepts a scholarship valued over two hundred dollars.	

^a Includes persons not otherwise required to register under the Lobbying Law.

Source: Lobbying Law (G.S. 120C)

Reporting and Review Requirements

All reportable expenditures made for the purpose of lobbying must be reported. The Division has four review phases, each of which has a separate purpose in complying with the Lobbying Law, Office of State Controller rules, and checking for other state laws and policies. Each review builds upon the preceding

review of the filer's documents. The Division performs systematic reviews of reports filed by lobbyists and principals to assure complete and timely disclosure of reportable expenditures. The four review phases are:

- The first review phase insures that submitted documents have been completed and the correct amounts of fees have been paid. The documents are then indexed, verified, and scanned to facilitate the reports/documentation being available to the public via the internet. All expenditure reports are subjected to the first review phase.
- The second review phase involves checking the accuracy of the expenditure amounts submitted by the filers. The data is keyed into a database by the Review Officer. This process generally takes a month. All expenditure reports are subjected to this review phase.
- The third review phase involves an examination and comparison of monthly reports to quarterly reports to ensure complete disclosure. This review also compares the lobbyists report to the principals and vice versa to ensure consistent and complete disclosure. The Division also audits all of the lobbyist and principal filings relating to the same event to insure that there is consistency regarding the description and the amounts being reported for a single event when there is more than one sponsor. The Division's goal is to ensure that all reports undergo the third review phase. The examination and comparison by the Review Officers is currently a manual process.
- The fourth review phase requires the filer to provide supporting documentation upon request. This review may also require a site visit by the Review Officer after quarterly reports have been received and processed. The Division's goal is to perform this review on 25 percent of the reports, plus additional reports that are flagged due to unanswered questions raised during the third review and/or ensuing complaints or investigations. The Division also audits each late monthly or quarterly report.

The Division received and processed over 14,000 documents⁵ during the first 8 months of 2007 which represented 9,961 filings⁶, and included over 3,640 documents for registrations and fees. During the first 8 months of 2007, the Division did not conduct any third or fourth review phases. The Division began performing the third reviews in November 2007.

Investigation and Enforcement

The Division is required to investigate complaints received with respect to lobbyists, principals, liaisons, or solicitors that have violated the reporting provisions of the Lobbying Law. The investigative portions of the complaints are carried out by the Division's Attorney and Law Enforcement Agent. These investigations are initiated based upon complaints received from outside the Division or irregularities found during any of the four review phases. If the Division determines during the investigation that a lobbyist, principal, or solicitor has willfully violated any provision of the registration and reporting process, the Division can levy fines up to \$5,000. The Division has the authority to carry complaints to the Wake County District Attorney for prosecution. At the time of the study, the Division was investigating four lobbying violation cases. As the public becomes more aware of the lobbying rules, the Division anticipates the number of complaints to increase.

The Lobbying Act requires lobbyists, principals, and solicitor's reports to be notarized. Because North Carolina permits electronic notarization, and also allows some supporting documentation to be submitted

⁵ Documents include (1) registrations of lobbyists, principals, and solicitors; (2) the expenditure reports of lobbyists, principals, solicitors, and other persons required to report but who do not have to register; (3) correspondence regarding registration and the imposition of late filing fees; and (4) checks that are received for registration fees and fines imposed upon a late report filers.

⁶ Filings include registrations, amendments, and monthly and quarterly expenditure reports received from lobbyists, principals, liaisons, solicitors, and other persons who are required to report expenditures, but are not required to register.

and/or stored electronically, the investigator should be cross-trained in notary laws in order for the Division to effectively enforce and administer the Lobbying Law.

Division Publications

The Division is required to make available, as soon as practicable, a directory of the registered lobbyists and principals in an electronic, searchable format. Within 20 days after the General Assembly convenes each session, the Division must furnish all designated individuals⁷ and the State Legislative Library a list of all persons who have registered as lobbyists and their respective principals. Supplemental lists must be provided every 20 days, thereafter, while the General Assembly is in session and every 60 days when it is not in session. During the first 8 months of 2007, the Division provided an average of about 4,000 electronic and over 2,800 paper copies of the lobbyists and principals lists monthly.

In addition to the directory responsibilities and duties, the Division's Director and Attorney produce quarterly newsletters to publicize changes in the Division's administration of the Lobbying Law. The Attorney is also responsible for updating the "Frequently Asked Question" section of the Division's web site throughout the year.

Administrative Tasks Related to Lobbying

In accordance with the Lobbying Law, the Division developed rules, orders, and forms that are necessary to administer the provision related to lobbyists' and principals' registration, reporting requirements, and reportable expenditures. The Division's Lobbying Law rules (18 NCAC 12.0101 through 12.1601) were approved by the Rules Review Commission on November 15, 2007.

The Division is not authorized a receptionist position even though many of the duties, such as answering the telephone, greeting walk-ins, and other routine administrative duties currently being performed by the Review Officers, are considered receptionist duties. Lapsed salary funds were used to fill this role with a temporary employee between January and June 2007. Since the Division is fully staffed, lapsed salary funds are no longer available to fill the receptionist position. Therefore, the Review Officers are each spending approximately 20 percent of their time each week performing duties that a receptionist would normally perform.

RESULTS

Registration of Lobbyists and Principals

Even though the new Lobbying Law took effect on January 1, 2007, the Division was responsible for processing the fourth period late filer reports from calendar year 2006, under the previous lobbying statute.⁸ Thus, the Division had to collect fees for 116 late filers from 2006 by calling, e-mailing, and/or sending letters. The Division is also responsible for carrying out the same tasks for the 2007 late filers. The types of filings determine whether the lobbyist, principals, or others file monthly or quarterly reports. Table 4 on page 8 shows the number of late filers for the first 8 months of 2007.

⁷ Designated individuals include legislators, legislative employees, and public servants. Public servants are certain staff and employees of the executive and judicial branches and members of certain State boards and commissions.

⁸ Under the previous lobbying statute, the last filing period for lobbyists and principals in 2006 was from the July 29, 2006 General Assembly adjournment date to December 31, 2006.

Table 4

Late Filers Reports Processed--January to August 2007

Period	Type of Filer	Filers		Number of Filings
		Lobbyists	Principals	
4th Period CY 2006 ^a	Quarterly	60	56	116
January 2007	Monthly	0	7	7
February 2007	Monthly	0	2	2
March 2007	Monthly	0	2	2
1st Quarter CY 2007	Quarterly	57	56	113
April 2007	Monthly	0	2	2
May 2007	Monthly	0	1	1
June 2007	Monthly	2	0	2
2nd Quarter CY 2007	Quarterly	45	57	102
July 2007	Monthly	2	0	2
August 2007	Monthly	3	0	3
	Total	169	183	352

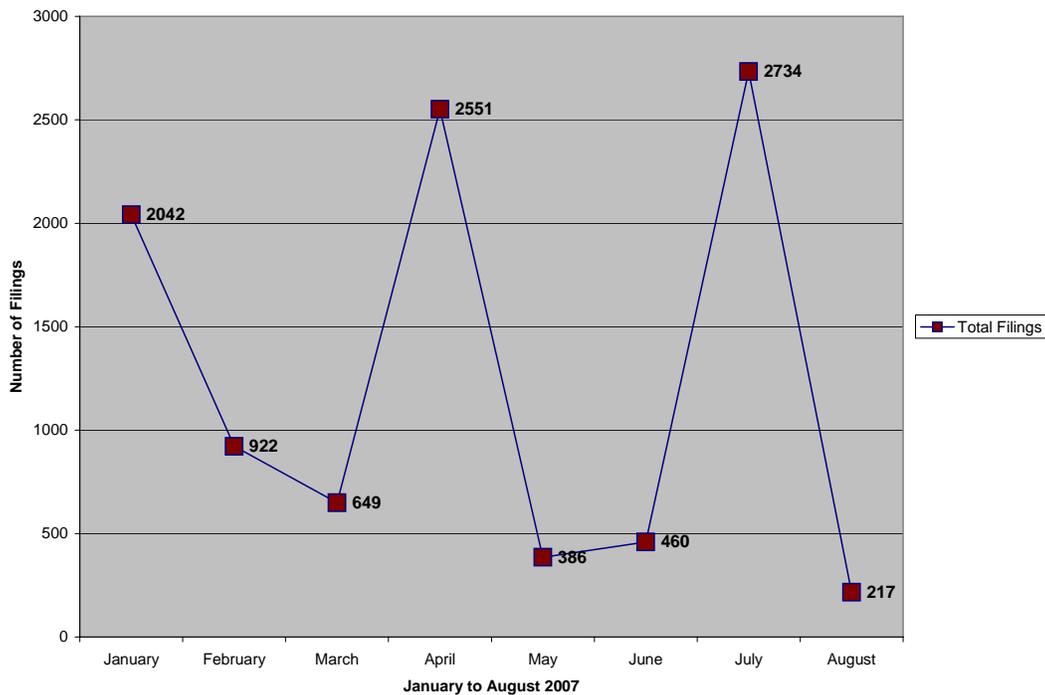
^a August 29, 2006 through December 31, 2006

Source: Lobbying Compliance Division

The Division reviewed 9,961 registrations and monthly and quarterly expenditure reports received during the first 8 months of 2007. The Division collected \$277,700 in registration fees during this time period. Chart 1 shows the number of filings received by month during the first 8 months of 2007 and Chart 2 on page 9 shows the number of expense reports, amendments, and registrations/authorizations submitted by each type of filer—lobbyists, principals, liaisons, solicitors, and others.

Chart 1

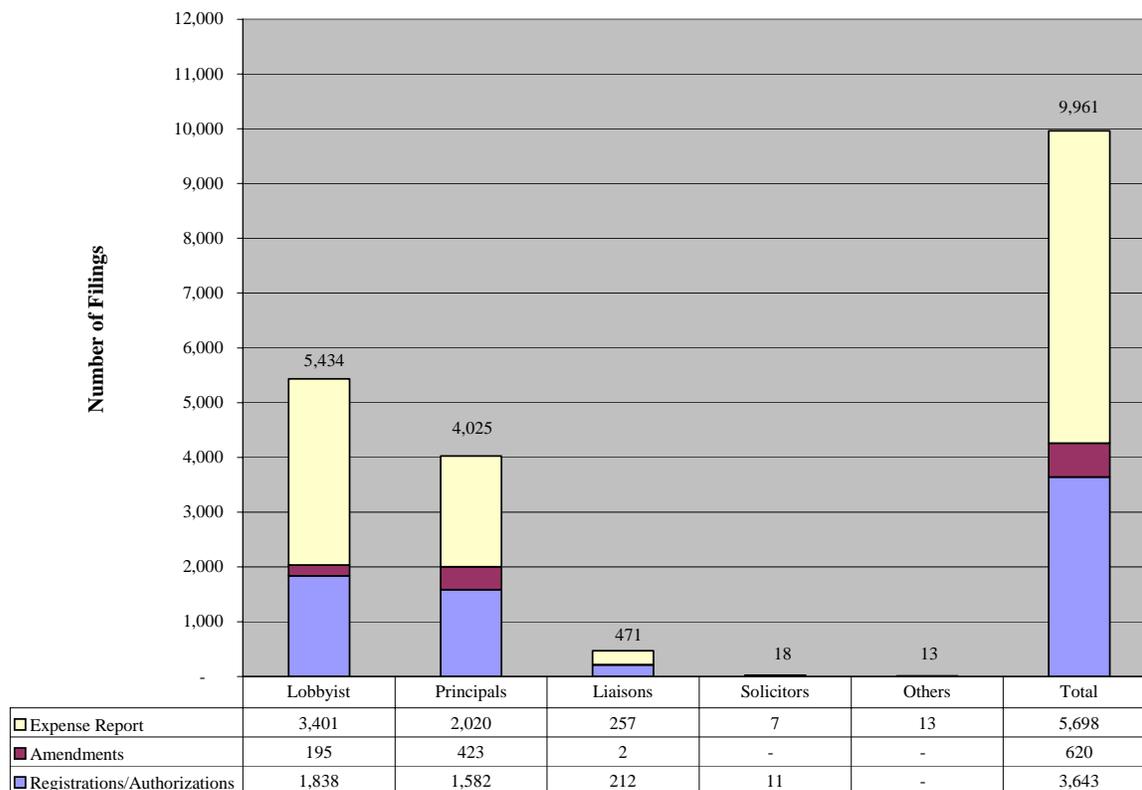
Number of Filings Received January 1, 2007 through August 31, 2007



Source: Lobbying Compliance Division

Chart 2

Types and Numbers of Filings Received January 1, 2007 through August 31, 2007



Source: Lobbying Compliance Division

When registrations, reports, and correspondence are received by the Division they must be indexed and scanned into the Division’s database. Table 5 shows the number of filings—registrations, expense reports, and amendments—received versus the number that were indexed during the first 8 months of 2007. The Division had a backlog of 1,639 documents that needed to be indexed and scanned as of August 31, 2007. Division staff estimated that it takes about 23 minutes to complete the indexing and scanning for each filing. Therefore, the time needed to complete the backlog of 1,639 filings is 628 staff hours (1639 x 23 minutes = 37,697 minutes / 60 minutes = 628 hours).

Table 5

Number of Filings Received versus Number Indexed

Month Received	Number of Filings Received	Number of Filings Indexed	Cummulative Backlog
January	2,042	569	(1473)
February	922	1,468	(927)
March	649	915	(661)
April	2,551	620	(2592)
May	386	1,768	(1210)
June	460	1,086	(584)
July	2,734	896	(2422)
August	217	1,000	(1639)
Totals	9,961	8,322	1,639

Source: Lobbying Compliance Division data

Of the 9,961 filings received during the first 8 months of 2007, 5,698 were monthly and quarterly expense reports from lobbyists, principals, solicitors, liaisons, and others. The other 4,263 filings represent registrations, correspondence, inquiries, or responses to questions from lobbyists, principals, solicitors, liaisons, and others. As of August 31, 2007, the Division had more than 1,100 customer service⁹ filings.

⁹ “Customer service” denotes filing documents that are incomplete or inaccurate and must be corrected during the first review phase before the document is made public and moved to the second review phase.

By November 2007, the Division had 793 outstanding customer service issues with 34 awaiting responses from the filers.

Reporting and Review Requirements

Copies of lobbyists, principals, liaisons, and solicitors expense reports are published on the Secretary of State Web site (<http://www.secretary.state.nc.us/lobbyists/expereports.aspx?>) within ten business days of being received. The Division was able to meet this requirement even during the heaviest workload periods.

The Division is required to conduct the third review phase by comparing the expense reports received from lobbyists with the reports received from their respective principals, as well as comparing their monthly reports with the quarterly tabulations for each group. During the first 8 months of 2007, the Division was unable to conduct these reviews. The Division began conducting the third reviews in November 2007, but it has not conducted enough reviews, to date, to have any measurable data showing the amount of time required to perform the reviews.

Investigation and Enforcement

The Division has developed a draft of a policies and procedures manual that outlines the investigation process and enforcement sanctions and the late filing fees associated with each sanction. For the first 8 months of 2007, the Division assessed lobbyists and principals \$84,390 in late filing fees. As of November 30, 2007, the Division had collected \$25,910 of these fees. The late filing fees were for January through June 2007.

Once the Division assesses the late filing fees, lobbyists or principals can appeal the fine by submitting additional justification and asking the Division to excuse or reduce the amount of the fine. The difference between the amount of fees assessed and collected is due to some fees being excused or reduced by the Division's internal informal appeals process and filers not paying their fees. The amount of assessments will change when the Division implements the new assessment process called for in the draft policies and procedures.

Administrative Tasks Related to Lobbying

The Division is responsible for adopting rules, orders, forms and definitions necessary to carry out the Lobbying Law. The Division staff expended 0.60 FTE for developing lobbying rules and forms related to the Lobbying Law during the first 8 months of 2007. The Division staff anticipated that the FTE associated with these activities will still be necessary because of the need to revise lobbying rules, address issues raised by Ethics Commission advisory opinions, and respond to questions raised by lobbyist, principals, and the general public. Further, the Division is authorized to issue rules to prevent the disclosure of economic information prematurely. Lobbying legislation enacted in recent years is likely to be amended in the next few years.

STAFFING NEEDS

Work Backlog and Overtime

OSBM's analysis of the staff's time and resource allocation data indicated that the workload backlog and overtime accrued during the first 8 months of 2007 amounted to 0.68 FTE of additional staffing that the Division needed for the tasks being performed during this period. During the first 8 months of 2007, the Division's staff worked 582 hours of overtime, primarily in reviewing and processing lobbyist and principal registrations and expenditure reports. Further, because of the time expended to meet the requirements of the Lobbying Law relative to reviewing and processing registrations and expenditure

reports, the Review Officers were unable to perform all of the first two review phases which amount to 628 staff hours of work backlog. Table 6 shows the details regarding the workload backlog and accrued overtime. The additional 0.68 FTE staffing needs is attributable to the increased responsibilities imposed by the new Lobbying Law of reviewing the registration and expenditure reports submitted by lobbyists, principals, liaisons, solicitors, and others.

Table 6

Workload Backlog and Accrued Overtime

Task	Hours	FTE ^a
Workload Backlog	628	.36
Overtime	562	.32
Total	1,190	.68

^a FTE's based on 1,760 available work hours per year.

Source: OSBM's analysis of Division data

The staff time incurred in moving the Division's office in 2007 should not be necessary in subsequent years. Table 7 shows that the net increase in the Division's staff needs is 0.60 FTE.

Table 7

Net Staffing Needs

Task	FTE ^a
Increase:	
Workload Backlog	.36
Overtime	.32
Total Increase	.68
Decrease	
Moving Division Office	.08
Total Decrease	.08
Net Increase	.60

^a FTE's based on 1,760 available work hours per year.

Source: OSBM's analysis of Division data

The Division is currently not authorized a receptionist to answer telephone calls, handle walk-ins, and perform other routine administrative duties for the Division, thus requiring one of the five Review Officers to be at the receptionist's desk at all times. This effectively reduces the time that each Review Officer spends on their regular duties by about 20 percent, or 1.0 FTE, at a cost of about \$37,000. The State's average salary for a

receptionist is \$27,300; \$9,700 less than the Review Officers' average salaries who are currently performing these duties.

Other Duties and Responsibilities

According to the Division's staff there are a number of duties and responsibilities that are mandated for the Division that were not being accomplished as of August 31, 2007 due to the lack of staff. These include:

- Performing the third and fourth review phases of the expenditure reports,
- Sending enforcement letters for late filers for the second and third quarter of 2007,
- Collecting late filing fees for the first, second, and third quarters of 2007,
- Contacting principals who filed their authorizations late, and
- Ensuring the accuracy of the lobbyist and principal directory.

There are other duties and responsibilities that the Division staff believes will be necessary in subsequent years, but they can not quantify the amount of staff time that will be needed to complete them. These include, (1) revising rules, forms, and software because of continued amendments to the Lobbying Law and (2) researching and analyzing legal issues related to reporting requirements for lobbyists, principals, and others as well as advisory opinions issued by the Ethics Commission. While the Division expects these additional duties and responsibilities to increase its workload, it does not have any measurable data to demonstrate the actual increase in staffing needs for these duties and responsibilities. Thus, without more definitive data on the actual amount of staff time that the Division will need to spend on all of the duties and responsibilities that have not yet been performed or are anticipated in future years, OSBM is unable to assign any actual FTEs to these unfinished and anticipated duties and responsibilities.

CONCLUSIONS

As a result of the Lobbying Law the workload for the Lobbying Compliance Division increased in 2007 over what the Certification and Filings Unit of the Secretary of State had performed in previous years. Thus, the Division's staff has been unable to keep up with the work; resulting in a backlog in reviewing and

processing registration and expenditure reports and overtime accrued during the first 8 months of 2007, amounting to 0.68 FTE. The workload attributed to moving the Division's office was 0.08 FTE, which will not be necessary in future years. Therefore the net quantifiable increase in the Division's workload is 0.60 FTE. While the Division is not currently authorized a receptionist position, it is using higher salaried Review Officers to perform receptionist duties. If the Division were to use the Review Officers to review and process registration and expenditure reports rather than performing receptionist duties, all of the current workload backlog and overtime (0.68 FTE) could be eliminated. Further, the balance of the Review Officers freed up time could be applied toward some of the other duties and responsibilities that have not yet been accomplished.

Even though the Division has only recently begun performing the third and fourth review phases of the expenditure reports, it is too early to know the staff time it will take to perform these reviews. Further, the Division does not have data to show the time it will take to accomplish the other duties and responsibilities that are not being currently performed by the Division staff. The Division should work with the Secretary of State's Information Technology Division to develop a program that electronically compares the expenditure reports submitted by lobbyists, principals, and others rather than its current method of performing manual comparisons.

The Division was unaware of the need to have defined service statements for its various duties and responsibilities that describe what the duties and responsibilities are for any of its staff, how the work should be performed, and what the expected outcomes of the duties and responsibilities are. Service statements would be extremely beneficial to the Division in quantifying its overall workload, especially for its primary duties, and the corresponding staff time needed for each duty and responsibility. This type of information would also be beneficial to the Division in justifying additional staff which it may need in the future. Because the Division's actual workload experience was limited to 8 months for this study, a second staffing analysis should be performed during late 2008.

RECOMMENDATIONS

OSBM recommends that the Lobbying Compliance Division request a receptionist position from the General Assembly through the budgetary process. This will enable the Division to dedicate the five Review Officers to fulltime reviewing and processing of lobbyists and principals registration and expenditure reports, and eliminate the 0.68 FTE backlog and overtime accrued by the Division during the first 8 months of 2007. Further, OSBM recommends that the Division prepare service statements for all staff duties that fully define what the duties are, how the work is performed, and the outcome of each duty. This will provide the Division with management tools to better quantify its overall workload and justify future staffing needs. OSBM also recommends that the Division work with its Information Technology Division to use its electronic database to compare the expenditure reports of lobbyists and principals to ensure consistent and complete disclosure between all parties rather than the manual examinations and comparisons which it is currently performing. OSBM also recommends that a second staffing analysis of the Division be performed in late 2008.

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