

Summary of the North Carolina Lobbying Law

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How much lobbying can a 501(c)(3) nonprofit do?

- Under Section 501(c)(3) of the Internal Revenue Code, influencing legislation – or lobbying – cannot be a “substantial” part of the activities of a charitable organization.
- The Internal Revenue Service has not provided clear guidance for the amount of lobbying activities that would be “substantial.” However, 501(c)(3) nonprofits have the option of electing to use an expenditure test (set forth in Section 501(h) of the Internal Revenue Code) that provides clarity on the amount they can spend on lobbying activities.
- There is no limit to the amount of executive branch advocacy that a 501(c)(3) nonprofit can undertake.

What constitutes lobbying under state law in NC?

- Under North Carolina law, lobbying includes:
 - (i) any attempts to influence legislative or executive action through direct communication with a legislator, legislative employee, or public servant (a “designated individual”) or that person’s immediate family member; AND
 - (ii) developing goodwill with a designated individual for the purpose of influencing or attempting to influence legislative or executive action.
- Note: Public servants include a wide range of state executive branch officials with decision-making authority. For the full list, see <https://ethics.nc.gov/coverage/covered-persons>.

Who is regulated under this law?

- **Lobbyist:** An individual who engages in direct lobbying or goodwill lobbying on behalf of an organization and who is compensated for lobbying. Any nonprofit **employee** who spends at least 5% of their time in any 30-day period on direct lobbying or who spends at least 5% of their time in any 30-day period on goodwill lobbying. Contract lobbyists hired by nonprofits must register regardless of how much they lobby. Nonprofit **volunteers** aren’t required to register.
- **Principal:** The entity on whose behalf a lobbyist lobbies. Nonprofits that lobby are typically principals.

What are the registration requirements?

- Lobbyists and principals must register with the North Carolina Secretary of State every year.

- Lobbyists must register within one day after they begin lobbying.
- There is a \$250 annual fee (plus a mandatory \$2 electronic filing fee) for lobbyists and principals.

What are the reporting requirements?

- Lobbyists and principals must file quarterly reports of their lobbying activities.
- Quarterly reports are required even if a lobbyist or principal had no lobbying expenditures.
- **All reports must be filed electronically with the Secretary of State.** E-filing can be done by scanning printed documents and submitting them through the Secretary of State’s web portal: <https://www.sosnc.gov/divisions/lobbying>. Lobbyists and principals must either: (1) file with the Secretary of State a physical copy of all reports submitted electronically; or (b) maintain a physical copy in their own files.
- When the General Assembly is in session, lobbyists and principals must file additional monthly reports if they had reportable expenditures that were made for the benefit of designated individuals.
- Principals need to report total compensation paid to their lobbyists for actual lobbying and related activities once a year, on their final reports. This total includes the amount spent on:
 - Direct lobbying and goodwill lobbying;
 - Research;
 - Drafting letters and emails;
 - Monitoring legislative or executive action including time spent communicating with others in the organization about proposed or pending legislative or executive action; and
 - Time spent advising and giving opinions to others in the organization about the effect of legislative or executive action.
- Principals need to report the names of other organizations to which it “loans” its lobbyists to provide lobbying activities. However, nonprofits don’t need to report when their lobbyists help members.
- **Note:** Prior to 2019, the state lobbying law included registration and filing requirements for entities that spent at least \$3,000 in any 90-day period on the “solicitation of others” to influence state officials. The General Assembly changed this law in December 2018, so nonprofits that engage in grassroots advocacy no longer need to report these activities on their lobbying expense reports.

How does lobbying under the NC law differ from the definition of lobbying under federal tax law?

1. The North Carolina law covers executive action as well as legislative action, whereas IRS lobbying rules apply only to legislative lobbying.
2. The North Carolina rules only apply to lobbying with the North Carolina state government, whereas the IRS lobbying rules apply to lobbying with federal, state, or local governments.
3. For purposes of the North Carolina rules, developing goodwill with designated individuals counts as lobbying. This isn't included under IRS lobbying rules.
4. Encouraging others to take action on legislation is grassroots lobbying under IRS rules, but it isn't lobbying under the North Carolina rules.
5. Ballot measure advocacy counts as direct lobbying under IRS lobbying rules but is not regulated as lobbying by the state of North Carolina.

What is the lobbyist gift ban?

- Generally, gifts from lobbyists or principals to designated individuals are banned.
- There are several important exceptions to this gift ban. These exceptions include:
 - Food and beverages for immediate consumption at certain *free* public events. For legislators, public events include those events where an entire legislative body (including a committee or subcommittee) is invited AND (i) there are at least 10 other attendees; OR (ii) all members or board members of the organization are invited. For public servants, public events include those events where at least 10 public servants are invited AND (i) the event is open to general public; OR (ii) there are at least 10 other attendees. To meet this exception, the event must have a sign indicating that it is open to the general public.
 - Reasonable expenses for educational meetings. Educational meetings are events with at least 10 or more attendees, a formal agenda, and only incidental entertainment, with notice given at least 10 days in advance.
 - Reasonable food, beverage, and transportation expense reimbursements for legislators or civil servants who are employees, board members, or contractors of a nonprofit.
 - Plaques and non-monetary mementos.

What are other restrictions on lobbyist activities?

- Lobbyists can't make campaign contributions to state legislators or public servants or candidates for these offices.
- Lobbyists can't collect or deliver campaign contributions from multiple contributors.

- State legislators and some public servants are prohibited from registering as lobbyists for a period of time after leaving office. For more information, see [North Carolina General Statutes § 120C-304](#).
- Lobbyists are restricted from serving on certain state boards and commissions. For more information, see [North Carolina General Statutes § 120C-304\(e\)](#).
- Nonprofits may not use state funds to pay for lobbying activities. **Nonprofits with state grants and contracts can lobby, but they must allocate non-state funds to cover their lobbying expenses.**

How does the law affect legislators' involvement with nonprofits?

- Legislators must file a Statement of Economic Interest with the State Ethics Commission. On this form, legislators must disclose the nonprofits for which they, or their immediate family members, serve as employees, board members, or contractors.
- **Legislators and public officials CAN serve on nonprofit boards!**

Do nonprofits need to register with the state if they are advocating on ballot measures?

- For the purpose of federal tax law, advocacy for or against a ballot measure (e.g., a state constitutional amendment or a local bond initiative) is considered direct lobbying.
- This type of ballot measure advocacy is not considered lobbying for the purpose of the North Carolina lobbying statute.
- However, the North Carolina campaign finance law requires registration of "referendum committees." If two or more nonprofits are collaborating on a ballot initiative, they are considered a referendum committee and are subject to the state campaign finance law. For statewide ballot measures, referendum committees must register with the NC State Board of Elections. For local ballot measures, referendum committees must register with the county board of elections in the county where the referendum is on the ballot.

Where can I get more information?

- North Carolina Secretary of State Lobbying Compliance Division:
<https://www.sosnc.gov/divisions/lobbying>
- For federal lobbying rules for nonprofits – Bolder Advocacy: www.bolderadvocacy.org
- North Carolina Lobbying Act (Chapter 120C the North Carolina General Statutes):
<https://www.ncleg.gov/Laws/GeneralStatuteSections/Chapter120C>
- North Carolina Government Ethics Act (Chapter 138A of the North Carolina General Statutes):
<https://www.ncleg.gov/Laws/GeneralStatuteSections/Chapter138A>