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ARGUMENTS FOR AND AGAINST BANNING LOBBYIST CONTINGENCY FEES

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ABSTRACT

This essay on contingency fee bans is broken up into four sections. The first section analyzes contingency fees issues. The second section describes gift rules and meal issues. In the third section, balancing issues are addressed. The fourth and final section concludes by observing that the balance of contingency bans and their implementation is delicate. Care must be taken to not permit corruption, but at the same time allow lobbyists the opportunity to be rewarded for successful lobbying efforts. The problem with contingency fee bans is that the mechanism is draconian, and discourages small, poor organizations from engaging in lobbying for fear of accidentally violating the law. Also, small, poor entities may not be able to hire top talent because of limited financial means. The result of contingency fee bans is that only organizations that are quite affluent can afford to pay top lobbyist talent. In a society that prides itself on ensuring that all voices are worth hearing, regardless of their ability to pay, contingency fees bans smack of only government access based on substantial financial means.

Keywords: Advantages of Contingency Bans, Contingency Fees and Transparency, Contingency Fees and Public Trust, Disadvantages of Contingency Fee Bans, Lobbyist Contingency Fees Bans.

INTRODUCTION

This essay on contingency fee bans is broken up into four sections. The first section analyzescontingency fees issues.The second section describes gift rules and meal issues. In the third section, balancing issues are addressed. The fourth and final section concludes by observing that the balance of contingency bans and their implementation is delicate. Care must be taken to not permit corruption, but at the same time allow lobbyists the opportunity to be rewarded for successful lobbying efforts. The problem with contingency fee bans is that the mechanism is draconian, and discourages small, poor organizations from engaging in lobbying for fear of accidentally violating the law. Also, small, poor entities may not be able to hire top talent because of limited financial means. The result of contingency fee bans is that only organizations that are quite affluent can afford to pay top lobbyist talent. In a society that prides itself on ensuring that all voices are worth hearing, regardless of their ability to pay, contingency fees bans smack of only government access based on substantial financial means.

CONTINGENCY FEES ISSUES

The four subsections in this section attempt to answer the following four questions:

- Are contingency fee bans necessary?
- Do contingency fees increase the risk of corruption?
- Do contingency fees overly burden small advocacy groups?
- Do contingency fees enhance or undermine public trust?

Each subsection is discussed in turn.

Are Contingency Fee Bans Necessary?

Contingency fee bans may not be necessary, even though they are a distinct preventative layer. Individuals who argue that other safeguards such as transparency registers and conflict-of-interest laws,examine actions, whereas contingency fee bans eliminate the financial incentive that mayact as a corruption mechanism. Opponents contend that contingency bans are redundant, constrain the access to justice, and reduce commercial freedom.[1]

Arguments Against Contingency Fee Bans

Capps argued that contingency fee bans are unnecessary because the current modern anti-corruption framework ensures that blanket bans are redundant.[2] The arguments against contingency fee bans include:[3]

- ***Transparency Overlap:*** State databases currently track who lobbyists meet with.
- ***Conflict Laws:*** Strict rules already prevent individuals from benefiting from contingency bans.
- ***Access Denied:*** Contingency bans impede poor clients from hiring attorneys.
- ***Risk Sharing:*** Contingency fees permit businesses to divide legal risks.
- **Alternative Caps:** Price ceilings on contingency fees reduce abuse without total contingency bans.

Arguments For Contingency Fee Bans

Individual who argue in favor of contingency fee bans point out that general anti-corruption laws possess blind spots that can only be fixed by contingency fee bans.[4] They include:[5]

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[1]*Seegenerally*, LII Staff, ContingencyFee, *Legal Information Institute* (n.d.), *available at*https://www.law.cornell.edu/wex/contingency_fee.
[2]Meredith A. Capps, "Gouging the Go "Gouging the Government":Why a FederalContingencyFee Lobbying Prohibition is Consistent With First AmendmentFreedoms, 59 *Vanderbilt Law Review* 6, 1885-1923 (2019), *available at*https://scholarship.law.vanderbilt.edu/cgi/viewcontent.cgi?article=1660&context=vlr.
[3]*Id.*
[4]Thomas M. Susman, &Margaret Martin, Contingent FeeLobbying:Inflaming Avarice or FacilitatingConstitutionalRights?, 31 *Seton Hall Legislative Journal*

- ***Incentive Removal:*** Bans stop the desire to corrupt systems.
- ***Enforcement Gaps:*** Tracking backroom deals is incredibly difficult.
- ***Frivolous Cases:*** Percentage fees encourage high-risk, low-merit lawsuits.
- ***System Integrity:*** Standard laws fix damage; bans prevent it.
- ***Public Trust:*** Total bans ensure decisions look entirely impartial.

Thus, depending on what one values, contingency fee bans may or may not be desired. If individuals can do was they want, then the fear of corruption is paramount. On the other hand, if there are societal restraints on behavior that are not related to contingency fee bans, but affect the ability to engage in corruption, then contingency fee bans may not be necessary. The problem with contingency fee bans are that they are draconian in nature, causing unintended consequences to occur. There does not seem to be a middle ground.

Do Contingency Fees Increase the Risk of Corruption?

Contingency fees are typically called success fees because in lobbying, they generate tension between thwarting political corruption and enlarging government access.[6] More than 40 states currently prohibit contingency fees for lobbying legislators to circumvent the distortion of public interest. Even so, there is active debate among policymakers, constitutional scholars, and advocacy groups as to whether a total contingency fee ban is the best approach.[78] The risks and the rewards are as follows:

The Risk of Increasing Corruption Due to Improper Influence

Opponents of contingency fee lobbying argue that tying a lobbyist's salary to a specific legislative outcome changes the fundamental nature of the profession.[910] The risks include:

- ***Ethical Boundaries Can Drop:*** When a lobbyist can obtain a significant financial gain provided a bill either passes of fails, there is a temptation to employ unethical or deceptive tactics to increase that gain.[1112]
- ***Merits-Based Policies Can Be Distorted:*** Contingency fees can induce lobbyists to use personal relationships favors, or other forms of pressure to encourage public officials to react based on their personal relationship with a lobbyist rather than on the merits of the policy.[13]
- ***Public Trust Can Erode:*** If government actions or public contracts appear to be related to lobbyist payouts, the public can come to believe that governmental decisions are transactional.

The Reward of Leveling the Playing Field for Poorly Funded Groups

Many legal scholars and grassroots advocates believe that a total prohibition on contingency fees conversely, legal scholars and grassroots organizers argue that a blanket prohibition on contingency fees significantly reduces the effectiveness of the political process. For them, it is all about equity, a view that frequently appears in civil litigation.[14]

- ***Lowers Barriers to Entry:*** Traditional federal lobbying retainers can range from $8,000 to over $75,000 per month. Small nonprofits, localized advocacy groups, and cash-strapped organizations are completely priced out of this market. Contingency fees permit cash poor organizations to defer costs by paying lobbyists when the desired policy changes occur.[15]
- ***Aligns Incentives When Budgets Are Tight:*** Typically, a client pays a lobbyist whether or not the lobbyist delivers the desired results. A contingency fee ensures that organizations with limited resources only pay when the desired policy is successful.[16]
- ***Protects First Amendment Rights:*** Contingency fee advocates argue that the right to "petition the Government for a redress of grievances"[17] should not be the exclusive domain of wealthy individuals and corporations that can afford significant retainers. This closes the door on financially disadvantaged groups attempting to navigate the political landscape.[18]

Contingency fees, without any other restrictive societal mechanism of restraint, will likely precipitate some form of corruption. The effect of contingency fee bans is that no form of corruption is tolerable, even though unintended negative consequences will likely occur. The reason is that it is believed that a small amount of corruption leads to greater and greater corruption. The risk of corruption exists because it is believed that individuals are morally corruptible. Even so, in the law, attorneys are allowed to take cases on a contingency fee basis, and yet the vast majority of attorneys are honest folk. Perhaps some similar system can be devised for the lobbying industry?

Do Contingency Fees Overly Burden SmallAdvocacy Groups?

If contingency fees are banned, small interest groups experience a disproportionate financial barrier. However, courts and legislators generally agree that this burden does not necessarily prevent these groups from petitioning their government under the First Amendment. The debate attempts to balance the need for equal political access

2, 311-43(2007), *available at*https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2297481.
[5]*Id.*
[6]*Id.*
[7]James A. Kahl, Beware of Contingent Fee Restrictions WhenYour Association Hires a Lobbyist, *Whiteford* (May 4, 2022), *available at* https://www.whitefordlaw.com/news-events/beware-of-contingent-fee-restrictions-when-your-association-hires-a-lobbyist.
[8]Thomas M. Susman, &Margaret Martin, *supra*, note 4.
[9]Maria Leonor Rodriguez Pratt, Lobbying of the Judiciary: Risks and Mitigation Measures, *Transparency International* (Dec. 2025), *available at*https://knowledgehub.transparency.org/helpdesk/lobbying-of-the-judiciary-risks-and-mitigation-measures.
[10]*Seegenerally*, Christian On Mon, Regulating Lobbying Contingency or Success Fees, *Association of Accredited Public Policy Advocates to the European Union* (May 23, 2016), *available at*https://www.aalep.eu/regulating-lobbying-contingency-or-success-fees.
[11]Meredith A. Capps, *supra*, note 2.
[12] Christian On Mon, *supra*, note 10.
[13]*Id.*
[14]William R. Towns, U.S. ContingencyFees: A LevelPlayingField?,*WIPO Magazine* (Feb. 5, 2010), *available at*https://www.wipo.int/en/web/wipo-magazine/articles/us-contingency-fees-a-level-playing-field-37140.
[15]LL Staff, Lobbying Costs:What to Expect, *LobbyistLocator.com* (n.d.), *available at*https://lobbyistlocator.com/resources/lobbying-costs.
[16]Edward Terzian, The Pros and Cons of ContingencyFeeAgreements, *The InheritanceRecovery Alliance* (Dec. 31, 2024), *available at*https://www.inheritancerecovery.com/the-pros-and-cons-of-contingency-fee-agreements/.
[17] U.S. Const., Amend I, *Constitution Annotated* (n.d.), *available at*https://constitution.congress.gov/constitution/amendment-1/.
[18] Stacie L. Fatka, & Jason Miles Levien, Protecting the Right to Petition: Why a Lobbying ContingencyFee Prohibition Violates the Constitution, 35 *Harvard Journal on Legislation* 559 (1998), *available at*https://access.heinonline.com/HOL/LandingPage?handle=hein.journals/hjl35&div=29&id=&page=.

and a state's compelling interest in preventing corruption, particularly pay-to-play corruption.[19][20]

Contingency Fee Bans Burden Small Groups

Legal scholars and advocacy groups contend that a total ban on contingency fees harm resource-poor groups in the following ways:

- ***Have High Upfront Costs:*** As previously noted,[21] professional lobbyists charge steep monthly retainers or hourly fees. Small non-profits, grassroots coalitions, and even small businesses typically discretionary income to spend on lobbying.[22]
- ***Shift of Financial Risk:*** A contingency fee permits a client to pay the fee only if the lobbyist achieves the desired result. By banning contingency fee, a client must bear all of the financial risk, even when the lobbying efforts fail.[23] In other words, a contingency fee allows the client and the lobbyist to share the financial risk.
- ***Exclusivity of Access:*** When risk-sharing fee structures are not present, highly competent lobbyists are mainly hired by wealthy and powerful individuals, corporations, and trade associations, where small civic groups are shut out of professional legislative advocacy.[24]

Corruption and Contingency Fee Bans

There are several types of corruption that a contingency ban attempts to alleviate based on public policy priorities, including:

- ***Preventing Pay-to-Play Corruption:*** When lobbyist fees are directly related to legislative success, courts have long held that it creates a significant incentive for corruption, bribery, or backroom deals.[25]
- ***Protecting the Public Treasury:*** When lobbyists are attempting to influence public procurements, a lobbyist might use tactics that are too aggressive as they might trigger a large contingency fee to obtain a large government contract.[26]
- ***Judicial Consensus:*** The Supreme Court along with state supreme courts have consistently held contingency bans are constitutional because the bans regulate how money is spent, rather than the content of speech or the right to petition the government.[27]

The issueis to address any imbalances without encouraging corruption. Some experts argue that invoking a rigorous disclosure regime will strike the proper balance. Here, contingency fees would be allowed, but strictly monitored via transparent public databases, thereby ensuring that small groups could retain competent lobbyists while mitigating the risk of secret and corrupt influence.[28]

[19]Meredith A. Capps, *supra*, note 2.
[20]Thomas M. Susman, &Margaret Martin, *supra*, note 4.
[21] LL Staff, *supra*, note 15.
[22] Stacie L. Fatka, & Jason Miles Levien, *supra*, note 18
[23]James A. Kahl, *supra*, note 7.
[24]Thomas M. Susman, &Margaret Martin, *supra*, note 4.
[25]Andra DelMonico,Overview of Lobbying Law, *Super Lawyers* (Oct. 17, 2025), *available at*https://www.superlawyers.com/resources/lobbying/.
[26]Meredith A. Capps, *supra*, note 2.
[27] CRS Staff, Lobbying Congress: An Overview of Legal Provisions and CongressionalEthics Rules, *EveryCRSReport.com* (Mar. 31, 2010), *available at*https://www.everycrsreport.com/reports/RL31126.html.
[28]Thomas M. Susman, &Margaret Martin, *supra*, note 4.

Do Contingency Fees Enhance or Undermine Public Trust?

It is likely that contingency fees employed in political process would undermine public trust. Although they encourage political access, an unintended consequence is that it would increase the perception of political corruption. Some of the issues involved include:[29]

Contingency Fees Undermine Public Trust

Here are five reasons why contingency fees are perceived to undermine public trust. The hidden assumption is that greed is the motivating factor for corruptive behavior for both a lobbyist and a government official.

- ***Perception of Bribery:*** When individuals pay for outcomes, it appears that they are buying laws.
- ***Distorted Priorities:*** Lobbyists would likely pursue their self-interests, supporting bills that would result in high fees, rather than the public good.
- ***Aggressive Tactics:*** Contingency fees would likely encourage unethical and high-pressure behavior.
- ***Special Interest Power:*** Wealthy individuals and groups could easily outbid grassroots causes.
- ***Eroded Integrity:*** Lawmakers would seemingly be targets for commercialized transactions.

Contingency Fees Are Public Trust Neutral

The assumption here is that individuals will not always act in their own financial self-interest. Moral take precedence over greed. Also by permitting contingency fees, small, poor advocacy groups have an opportunity to affect legislative decision-making

- ***Lower Entry Barriers:*** Poor advocacy groups could employ competent lobbying talent.
- ***Risk Sharing:*** Clients and lobbyists would share the risk of loss.
- ***Aligned Incentives:***Lobbyists would probably work harder because their pay is coupled to results.

Assuming that individuals are motivated by greed, the risks to public trust likely outweigh the contingency fee benefits because in politics, legal frameworks consistently prioritize corruption prevention over maximizing market freedom.[30]

GIFT RULES AND MEALS ISSUES

The three subsections in this section try to answer the following three questions:

- Can meals be shared without the suspicion of corruption?
- Do informal, transparent conversations enhance mutual understanding?
- Does American etiquette have a place in public sector ethics?

Each subsection is examined one after the other.

Can Meals Be Shared Without the Suspicion of Corruption?

Assuming that strict financial transparency laws are enforced and that the parties adhere to specific limits, it seems reasonable that

[29]*Id.*
[30]*Id.*

lobbyists and government officials should be able to share meals without a suspicion of corruption.[31]

Arguments for Allowing Meals

Arguments for permitting lobbyists and clients to share meals include:[32]

- ***Relationship Building:*** Informal settings, such as meals,promote open communication.
- ***Information Sharing:*** Meals provide time to discuss complex subjects.
- ***Human Connection:*** Casual interactions encourage mutual trust and understanding.
- ***Constituent Access:*** Some government officials often meet constituents over food because it fosters access to the public.

Arguments for Disallowing Meals

Arguments for not permitting lobbyists and clients to share meals include:[33]

- ***Undue Influence:*** Wealthy groups can gain more access to power than groups with less wealth.
- ***Implicit Bias:*** Receiving a gift creates the subconscious desire to reciprocate.
- ***Public Distrust:*** Citizen Confidence in government decisions declines rapidly.
- ***Quid Pro Quo:*** Dining can disguise illegal bribery or deal-making.

Regarding gift rules and meals issues, here are some possible rules that regulators could employ to ensure that such activities do not lead to corruption.[34]

- ***Gift Bans:*** Strict laws that prohibit meals purchased by lobbyists.
- ***De Minimis Limits:*** Rules permitting only inexpensive food items such as coffee.
- ***Public Disclosure:*** Mandatory itemized reporting of all lobbyists spending.
- ***Bright-Line Rules:*** Clear monetary thresholds to eliminate potential ethical abuses.

As can be seen from the list above, some form of gratuities may be acceptable, provided that the amounts are not excessive and are required to be publicly disclosed.

Do Informal, Transparent Conversations Enhance Mutual Understanding?

Informal, transparent discussions can significantly enrich mutual understanding regarding complex issues. Formal settings typically lead to rigid hierarchies, posturing, and the fear of public judgment. They can stifle honest discussion and dialogue. However, informal, transparent conversations have the ability to generate new avenues to resolve conflicts and can break through logger jamming posturing.[35]

Why Informal Transparency Works

Some of the reasons why informal transparency are effective include:[36]

- ***Reduces Defensive Posturing:*** Individuals no longer use rehearsed talking points.
- ***Humanizes Opposing Sides:*** People can see the motives behind the other party's position.
- ***Encourages Active Listening:*** Informal, transparent environments promote genuine curiosity.
- ***Allows Safe Exploration:*** Parties can test ideas without committing their respective institutions.
- ***Reveals Shared Values:*** Overlapping goals quickly come to light much faster than in rigid formal settings.

Critical Requirements to Implement

When conducting informal, transparent conversations, the essential requirements that should be implemented include:[37]

- ***Clearly Defined Boundaries:*** Before a discussion begins, the boundaries of the discourse should be clearly defined and understood by all parties.
- ***Traceable Information Paths:*** Informal insights that manifest themselves during an informal, transparent discussion should be documented so that the parties understand how they influence formal decision-making.
- ***Protected Vulnerability:*** Candid statements should not be weaponized at a later date.
- ***Inclusive Access:*** It is essential to prevent informal conversations from transforming into exclusive echo chambers.

When conducting informal, transparent conversations enhance mutual understanding, it should be remembered that there are significant risks to mitigate and manage, including:[38]

[31] *See generally*, Kate Kelley, Congress Passed a Money Launder Law. Interest Groups Are Still Fighting It., *The New York Times* (Dec. 7, 2023), *available at*https://www.nytimes.com/2023/12/07/us/politics/corporate-transparency-act-lobbying.html.

[32] Ben Bergman, Lobbying Rules Tough to Swallow for D.C. Eateries, *National Public Radio* (Feb. 16, 2007), *available at* https://www.npr.org/2007/02/16/7445120/lobbying-rules-tough-to-swallow-for-d-c-eateries.

[33] Roxanne Roberts, Ethics Rules Can RestrictMembers of Congress During Party Time, *The Washington Post* (Dec. 30, 2025), *available at*https://www.washingtonpost.com/lifestyle/style/ethics-rules-can-restrict-members-of-congress-during-party-time/2011/12/20/gIQAMlrHAP_story.html.

[34] *See generally*, NAAG Staff, State Gift Laws, *National Association of Attorneys General* (n.d.), *available at https://www.naag.org/state-gift-laws/.*

[35] *See generally*, Disha Sharma, Clear Conversations Play a Crucial Role in EnhancingUnderstanding, *The Times of India* (Jul. 17, 2023), *available at*https://timesofindia.indiatimes.com/readersblog/vocalthoughts/clear-conversations-play-a-crucial-role-in-enhancing-understanding-55306/.

[36] Andrew Rahaman,The Case For Transparency In The Workplace, And Its Impact On Organizational Performance, *Forbes Business Council* (Jun. 16, 2023), *available at*https://www.forbes.com/councils/forbesbusinesscouncil/2023/06/16/the-case-for-transparency-in-the-workplace-and-its-impact-on-organizational-performance/

[37] *See generally*, Amy Edmondson, PsychologicalSafety and Learning Behavior in Work Teams, 44 *Administrative Science Quarterly* 2 (Jun. 1999), *available at* https://journals.sagepub.com/doi/abs/10.2307/2666999.

[38] Nora Denner, Carlotta Liebold;BennoViererbl, &Thomas Koch, Communication Managers' Perspective on Informal Communication: Risks, Opportunities and Challenges of Remote Work Environments, 31

- ***Accidental Misinformation Leaks:*** It is possible that ideas that have yet to be verified are mistaken for official policy.
- ***Perceived Backroom Dealing:*** If transparency does not possess clear reporting, it is likely that outside observers may believe that collusion exists.
- ***Possible Unprofessional Conduct:*** Casual settings can sometimes be perceived as, and can become,unprofessional conduct.

Even with the presence of these risks, it seems that clear and extensive reporting will likely be able to mitigate the risks of corruption.

Does American Etiquette Have a Place in Public Sector Ethics?

In contrast to American etiquette, in American public sector ethics, the social norm is for a host to pay for dinner. The problem is that when expecting or permitting another individual to pay for a government official's meal, even when it is a social or professional invitation, not only risks weakening ethical boundaries, but it is alsofrequently a violation of federal, state, and local laws.Here is how American etiquette interacts with public sector ethics:[39][40]

The Gift Ruleand Financial Integrity

In the private sector, paying for a guest's dinner is a sign of hospitality. However, in the public sector, a meal that is provided to a government employee by a contractor, lobbyist, or regulated business is legally considered a gift.[41]

- ***The Core Restriction:*** Public officials are generally prohibited from soliciting or accepting gifts from prohibited sources. This means any individual or organization that is seeking official action or doing business with the official's agency.[42][43]
- ***The Zero-Tolerance Norm:*** To avoid conflicts of interest, the prevailing ethical norm is that government employees must pay their own way. This is also known as Dutch treat.[44]

Exceptions to the Rule

While the standard is strict, there are the following narrow exceptions to the standard:

- ***The $20/$50 Rule:*** Federal employees may accept unsolicited gifts that are valued at $20 or less per occasion. The value of giftsfor a single source may not be more than $50 in a given calendar year. However, this exception does not apply if the meal can be perceived as an attempt to influence an official action of a federal employee.[45]
- ***Widely Attended Gatherings:*** If a government official is speaking at a gathering or is attending a large conference where there are mutual professional benefits, an ethics official may pre-approve free attendance and meals.[46]
- ***Informal Food:*** Simple refreshments such as coffee, donuts, or light appetizers at a reception are typically not thought of as a meal and are usually permissible.[47]

The basis of public sector ethics is that public trust trumps private politeness. It does not matter whether a private dinner invitation is given out of genuine hospitality with no corrupt intent. The idea is that the appearance of a government official who receives free benefits from an interested third party undercuts public confidence. Thus, government officials are trained to politely decline the hospitality standard. They should insist on paying for their own meal, or refuse the invitation.

BALANCING ISSUES

There is only one question that is asked in this section. In other words, do the potential benefits of the restrictions outweigh the burdens?

Do the potential benefits of restrictions outweigh the burdens?

Lobbying disclosure and regulation laws are a hotly debated topic. They are two sides of the same coin. Those who advocate for restrictions argue that they are marginally beneficial because generate transparent public oversight. In contrast, critics point out that complicated requirements inflict substantial limits on effective communication and chill legitimate advocacy.[48] The balance between these two notions depends on whether one emphasizes democratic transparency or operational efficiency.

Arguments For the Transparency Perspective

Individuals and organizations who contend that laws such as the Lobbying Disclosure Act deliver the following essential democratic benefits:[49]

- ***Public Confidence:*** Mandatory registration and quarterly reporting permits citizens to understand who spending money to influence public policy is. This amplifies trust in government.[50]
- ***Levels the Playing Field:*** Transparency exposes where corporate interests may dominate behind-the-scenes negotiations.[51]

CorporateCommunications: An International Journal 5 (Jan. 7, 2026), *available at*https://www.emerald.com/ccij/article-abstract/doi/10.1108/CCIJ-03-2025-0060/1334275/Communication-managers-perspective-on-informal?redirectedFrom=fulltext.

[39]LII Staff, 5 CFR § 2635.201 - Overview and Considerations for DecliningOtherwise Permissible Gifts, *Legal Information Institute* (n.d.), *available at*https://www.law.cornell.edu/cfr/text/5/2635.201.

[40]LII Staff, 5 CFR § 2635.204 - Exceptions to the Prohibition For Acceptance of Certain Gifts, *Legal Information Institute* (n.d.), *available at*https://www.law.cornell.edu/cfr/text/5/2635.204.

[41]*Id.*

[42]LII Staff, 5 CFR § 2635.202 - General Prohibition on Solicitation or Acceptance of Gifts, *Legal Information Institute* (n.d.), *available at*https://www.law.cornell.edu/cfr/text/5/2635.202.

[43]LII Staff, 5 CFR § 2635.203 – Definitions, *Legal Information Institute* (n.d.), *available at*https://www.law.cornell.edu/cfr/text/5/2635.203.

[44]LII Staff, *supra*, note 42.

[45]LII Staff, *supra*, note 40.

[46]*Id.*

[47]*Id.*

[48]Emily B. Erlingsson, Navigating the Maze of State and Local Lobbying Laws, *Pillsbury Insights* (Apr. 15, 2019), *available at*https://www.pillsburylaw.com/en/news-and-insights/navigating-the-maze-of-state-and-local-lobbying-laws.html.

[49]Office of the Clerk, Lobbying Disclosure Act, *United States House of Representatives* (Dec. 19, 1995), *available at*https://lobbyingdisclosure.house.gov/lda.html.

[50]*Id.*

[51]Facundo Jose Nazur, CorporateInfluence:Exploring the Relationship Between Lobbying and Corporate Power, 1 *Harvard Law School:Systemic Justice Journal* (2021), *available at*https://systemicjustice.org/article/corporate-influence/.

- ***Information Integrity*:** By demanding that lobbyists formalize their activities, an incentive is created to deliver high-quality data that are empirically verifiable to legislators instead of illicit favors.[52]
- ***Ethical Limits:*** Strict gift bans with financial boundaries inhibit bribery and diminish the appearance of corruption.[53]

Arguments Against the Transparency Perspective

Critics of the transparency perspective as well as compliance experts argue that overly rigid rules have generated a complex bureaucracy that impedes effective communication:[54]

- ***Compliance Burden:*** A maze of different federal, state, and local laws can ensurethat advocacy is discouraging. Smaller non-profits, grassroots groups, and citizens frequently refrain from communicating with government officials because they fear accidentally invoking legal penalties.[55]
- ***Narrow Definitions and Shadow Lobbying:*** A narrow definition of a lobbyist, such as the federal rule that requires an individual to spend at least 20 percent of their time on lobbying activities, can garble communication. Some lobbyists work as strategic advisors, so that they can communicate with government officials, but transform their communications into unregulated and less transparent channels.[56]
- ***Restricting Useful Dialogue:*** Strict communication limitsmay prevent legislators from easily obtaining specialized technical advice or prompt feedback from industry experts when writing time-sensitive legislation.[57]

In the end, whether lobbying laws are perceived as a net benefit or as a barrier depends on the content of the statute. Laws that include digital reporting mechanisms typically promote the public benefit while lessening the issues associated with open communication.[58]

CONCLUSION

In conclusion, there is no royal road when deciding whether contingency fee bans are beneficial to society. Contingency fee bans result in small, poor entities likely deciding not to participate in influencing government official for lack of financial resources. If contingency fees are allowed, then there is always the risk of corruption or the perception of corruption. This is because it is assumed that individuals are inherently greedy, and will likely do anything to obtain money. In capitalism, where the individual is supreme, there are no restraints on behavior. People can do whatever they want. A contingency fee ban is a governmental effort to restrain possible bad behavior. However, it comes with its own set of unintended consequences. It is the nature of the beast.

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Donald L. Buresh earned his Ph.D. in engineering and technology management from Northcentral University. His dissertation assessed customer satisfaction for both agile-driven and plan-driven software development projects. Dr. Buresh earned a J.D. from The John Marshall Law School in Chicago, Illinois, with a focus on cyber law and intellectual property. He also earned an LL.M. in intellectual property from the University of Illinois Chicago Law School (formerly, The John Marshall Law School), an LL.M. in cybersecurity and privacy from Albany Law School, graduating summa cum laude, and an LL.M.in financial compliance and risk management from Albany Law School, graduating summa cum laude. Dr. Buresh received an M.P.S. in cybersecurity policy and an M.S. in cybersecurity, with a concentration in cyber intelligence, both from Utica College. He has an M.B.A. from the University of Massachusetts Lowell, focusing on operations management, an M.A. in economics from Boston College, and a B.S. from the University of Illinois-Chicago, with a major in mathematics and philosophy. Dr. Buresh is a member of Delta Mu Delta, Sigma Iota Epsilon, Epsilon Pi Tau, Phi Delta Phi, Phi Alpha Delta, and Phi Theta Kappa. He has over 25 years of paid professional experience in Information Technology and has taught economics, project management, negotiation, business ethics, business law, quality management, and cybersecurity at several universities. Dr. Buresh is an avid Chicago White Sox fan and keeps active by fencing épée, foil, and now sabre at a local fencing club. Dr. Buresh is a member of the Florida Bar.

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