INSTITUTE for JUSTICE

MOWING DOWN THE GRASSROOTS

How Grassroots Lobbying Disclosure Suppresses Political Participation

By Jeffrey Milyo, Ph.D.

APRIL 2010

Executive Summary

Grassroots lobbying is any effort to organize, coordinate or implore others to contact public officials in order to affect public policy. Through grassroots lobbying, like-minded citizens can alert elected officials to constituents' preferences, educate fellow citizens and make their voices heard, and even persuade the public to adopt new views. In short, grassroots lobbying is quintessential representative democracy in action.

However, as this report documents, sweeping lobbying laws in 36 states threaten to strangle grassroots movements in red tape and bureaucratic regulation. Twenty-two states explicitly include grassroots lobbying in the definition of lobbying, while another 14 consider any attempt to influence public policy to be lobbying, as long as a certain amount is spent. Thus, such common activities as publishing an open letter, organizing a demonstration or distributing flyers can trigger regulation and force organizers to register with the state and file detailed reports on their activities, as well as the identities of supporters.

These regulations raise the costs of political activity and set legal traps for unsuspecting citizens, thus making it more difficult for ordinary citizens to participate in politics—all with little or no benefit to the public. As this report finds:

- Lobbying regulations are not intended to be understood by ordinary people. The first paragraph of Massachusetts' new lobbying law, for example, scored 0.9 on a 100-point scale in a readability test. Going by such tests, it would take 34 years of formal education to understand that paragraph; not even a doctorate from MIT or Harvard would be enough.

- The red tape would-be grassroots lobbyists must navigate to properly disclose activities and financial support is complex and burdensome. In previous research, ordinary citizens who tried to fill out similar forms correctly completed only about 40 percent of tasks.

- Running afoul of these regulations could bring stiff penalties, including thousands in civil fines and in some states criminal penalties. In New York, the maximum criminal penalty is $5,000 and four years in jail, equivalent to arson or riot; in Alabama, it is $30,000 and 20 years, equivalent to kidnapping.

- The public likely gains little from these regulations. Previous research suggests few will seek out the disclosed information, but many will be deterred from political activity by the public disclosure of their personal information.

These findings suggest elected officials should listen to constituent concerns or debate ideas in the open, rather than mowing down the grassroots with regulation.

Introduction

Is there anything more distinctly American than grassroots political engagement and activism? From town-hall meetings and statehouse rallies to talk radio, blogs and meet-ups, Americans follow politics with a passion; more importantly, we get involved—and not just every two years at election time. Whether it is debating current issues with coworkers, contacting elected representatives or just e-mailing news articles and political videos to friends and family, Americans make their voices heard. At least that is the ideal that we all revere, but the sad truth is that nowadays, you need more than the courage of your convictions and a soapbox if you dare to speak up on public issues. That is because the act of publicly discussing pending legislation or regulatory matters—for example, publishing an open letter, organizing a demonstration, speaking at a rally, distributing flyers, displaying a yard sign, etc.—falls under the legal definition of lobbying in many states. And lobbyists, even informal and amateur grassroots activists, are subject to a maze of regulations and legal restrictions if they simply urge their fellow citizens to take political action.

In most states, groups that engage in that kind of speech and activism, so-called "grassroots lobbyists," must register with the state and file frequent and detailed reports on their activities. This means itemizing expenditures or contributions, including donated items (e.g., the use of a website, a car or office equipment), and it may mean reporting the names and addresses of supporters. Such regulations set a legal trap for unsuspecting citizens: Other than professional politicians and lobbyists, who would think to consult a lawyer and register with the state before speaking out on a public issue? Who would think that speaking out constitutes "grassroots lobbying"? Worse yet, lobbying regulations are complex and not written in a manner accessible to lay persons. So not only is it easy for people to run afoul of such laws, they may be intimidated by them. Likewise, mandatory public disclosure of contributors to grassroots lobbying may deter some people from getting involved out of fear of retribution for supporting a controversial position.

In this report, I describe in detail how existing state laws on lobbying are so overbroad as to constitute an assault on popular participation in public policy debate.

Grassroots Lobbying: What It Is and Why It Matters

Simply put, grassroots lobbying is any effort to organize, coordinate or implore others to contact public officials for the purpose of affecting public policy. Grassroots lobbying is therefore not just the exercise of free speech and association, but the very process by which like-minded people coordinate their efforts and petition government for the redress of grievances. So, whether it takes the form of a public rally on the steps of the Capitol, a letter-writing campaign or an impassioned blog entry, grassroots lobbying is quintessential representative democracy in action.

The tradition of grassroots lobbying in America has its roots in colonial town hall meetings and anonymous pamphleteers; it was famously lauded in Tocqueville's *Democracy in America* and has since often been celebrated in American art (e.g., "Mr. Smith Goes to Washington"). But this is one tradition that has grown immensely more important as communication technology has advanced, so that now just about everyone is one email or tweet away from a call to action by a multitude of formal and informal voluntary membership organizations. To cite just one example, the website of the American Civil Liberties Union of Virginia encourages members to sign up as grassroots lobbyists; members then receive "regular legislative summaries listing the status of bills identified by the ACLU of Virginia staff as potentially impacting our civil right liberties … (and) … as needed, 'action alerts' on particular bills that require immediate attention."[1]

The effectiveness of grassroots lobbying is manifest by the effort of every major (and not-so-major) interest group to inform and energize its membership. Elected officials pay so much attention to groups like the AARP, the NRA, MADD and the Sierra Club precisely because those are large associations with a demonstrated ability to mobilize their membership to action.[2] The number and variety of groups that utilize grassroots lobbying would be impossible to catalogue here, but even relatively minor groups like cat fanciers recognize its importance and encourage their members to speak out on issues of mutual concern:

> Grass roots lobbying is the foundation of the American political system. Through this medium, our lawmakers learn what the will of their constituents is, and the manner in which these lawmakers respond is the basis on which they are held accountable.
> – Cat Fanciers' Association, Inc.[3]

Grassroots lobbying is therefore one way constituents can inform officeholders of what people in their district think and spur them to action. In such cases, every participant in a grassroots lobbying campaign is a potential vote for a competitor in the next election, and popular leaders of grassroots campaigns often make effective opposition candidates. For these reasons, incumbent legislators are

YOU MIGHT BE A LOBBYIST IF….

You are paid to directly communicate to legislators for the purpose of influencing pending legislative proposals.

> Every state regulates paid direct lobbying of this sort, but many states extend the list of covered public officials and actions well beyond what reasonable people would consider lobbying.

You send e-mails to all your personal and professional contacts, informing them about a proposed state tax hike; in the e-mail you suggest that recipients should contact their state legislator and make their voice heard.

> Twenty-two states explicitly define lobbying to include soliciting others to contact public officials for the purpose of influencing public policy.

You and your friends post flyers calling for a rally in support of anti-hate-crimes legislation; at the rally, you distribute homemade signs and T-shirts with political slogans.

> Another 14 states define lobbying as any attempt to influence public policy, as long as you meet a certain threshold of compensation or expenditures (including the value of homemade or donated items).

You invite a group of your neighbors to your home for light refreshments; you also circulate a petition to the town council seeking an ordinance to require pet owners to pick up after their pets.

> In several states, such as Georgia, Minnesota and New York, even communicating with *local* officials about *local* matters may violate *state* laws.

You post an open letter to public officials on a social networking webpage, or even in the window of your private home or business.

> There is no minimum compensation or expenditure threshold to be classified as a lobbyist in North Dakota, Rhode Island or Wyoming; this means that just about any public statement on legislative or regulatory matters is considered lobbying.

You prepare a report for your employer regarding the effects of a proposed change in state labor regulations; of your own volition, you later write to your state representative about the proposed regulations.

> In several states, including Connecticut and Vermont, the value of any research or planning that is later employed in lobbying, or even being compensated for such research, counts toward the threshold expenditure requirements for lobbying.

You even think about doing any of the above.

> Most states allow lobbyists a few days grace period to register and start filing reports about lobbying activities, but some states, like Idaho and Iowa, require that you register as a lobbyist before you engage in any lobbying activities. But given the overbroad definitions of lobbying in many states, this means you may not only be a lobbyist, you may already be subject to fines and criminal prosecution.

often very responsive to grassroots activity, which in turn makes grassroots lobbying campaigns an important check on the ability of party leaders to pressure legislators to work contrary to the interests of their districts.

But grassroots lobbying is more than just an alarm bell; it also serves an important educational function. Grassroots groups explain the content and effects of proposed legislation that would otherwise be completely hidden or incomprehensible to most citizens. Further, grassroots groups educate people about the legislative process and enable them to direct their concerns to the relevant committee and subcommittee members or to legislators who may wield a decisive vote. In this way, grassroots lobbying can serve as a powerful check on legislative gatekeepers and agenda setters who might otherwise bottle up popular legislation. As just one example of this educational role of grassroots lobbying, consider the National Volunteer Fire Council, a nonprofit association of volunteer fire, EMS and rescue services, whose website includes tutorials on grassroots lobbying techniques, how a bill becomes a law, congressional organization and the federal budget process.[4]

In these ways, the grassroots lobbying activities of industry and trade associations, unions, ideological interest groups and political parties serve to keep people informed and alert regarding policy proposals that affect them and facilitate the ability of citizens to participate in the legislative process in a manner that gives their voices maximal impact. For example, when some legislators in Connecticut tried to push through a bill to punish the Catholic Church for its successful activism in that state, the Church was able to quickly mobilize its members and shine light on the unsavory activities of those legislators (see "You can petition God, but not the Connecticut General Assembly," next page).

Finally, grassroots lobbying also includes attempts to persuade fellow citizens to adopt a new view about pending legislation or regulation. In a democracy, new ideas and policy proposals are implemented only after they gain majority support; however, by definition, any new idea must originate with a minority of citizens. Therefore, in any well-functioning democracy, there will always be passionate minorities (i.e., special interests) that work to convince fellow citizens of the wisdom of their views. This is why free speech and association is crucial for the health of democracies; it is through the vigorous and free exchange of ideas that new policies are introduced and explained, and perhaps accepted by the larger community.[5]

You can petition God, But not the Connecticut General Assembly

In March 2009, state legislators in Connecticut tried to rush through a bill that was widely recognized as a blatant act of retribution against the Roman Catholic Church. The Bridgeport Diocese had previously been successful in fighting for a conscience-protection amendment to gay marriage legislation. Elected officials responded with Raised Bill 1089. This legislation would require lay people to govern corporations that own church property, which would effectively strip Catholic bishops and pastors of control over Church finances. The bill was introduced without notice and placed on the legislative fast-track. But state legislators underestimated the Most Reverend William Lori, the blogging bishop of Bridgeport.

Lori used his website to inform the faithful and send out a call to action. On just four days' notice, the Bridgeport Diocese arranged for buses to take parishioners to a hastily scheduled hearing at the state Capitol in Hartford. The subsequent flood of phone calls and e-mails, along with the prospect of an overflowing and hostile crowd led legislators to cancel the hearing and abandon the bill (although the rally went on as planned with the crowd estimated at more than 3,500 people). Six weeks after the rally, the Office of State Ethics informed the Bridgeport Diocese that it may have violated state lobbying regulations. Connecticut law defines lobbying as communicating or soliciting others to communicate with any public official, or their staff, for the purpose of influencing any legislative or administrative action. The next week, the OSE threatened the church with a formal complaint and multiple fines of $10,000 each.

That's when the Diocese brought a federal lawsuit, which in turn prompted the Connecticut Attorney General, Richard Blumenthal, to tell the Office of State Ethics to back off. Unfortunately, Blumenthal did not issue a formal advisory opinion, which might have offered some protection to future grassroots efforts, and his letter to the OSE made clear that he still supports strict regulation of grassroots lobbying, even for churches communicating to their members. For his part, the Reverend Lori was gracious and turned the other cheek. He promptly posted a note on his blog thanking the Attorney General, and even praised Blumenthal:

> His opinion is a truly significant announcement that stands not just with our State's Catholics but with all citizens of the State whose fundamental civil liberties were placed in jeopardy by the application by the OSE of the State's lobbying registration requirements. It is essential that citizens have the right to organize and communicate their views to their government without being required to register as lobbyists.[6]

Grassroots Lobbying and Political Entrepreneurship

Would-be grassroots lobbyists face an inherent difficulty known in political science literature as the problem of collective action: Oftentimes, self-interested individuals do not have a sufficient incentive to take actions that would be in the interest of a group of people.[7] Political participation is rife with such problems, from voting and contributing to candidates to contacting legislators about issues of shared concern. In each of these cases, isolated individuals may rationally choose to slack off; after all, the incremental value of just one vote or one voice is small. And the larger a group, the greater the incentive to free ride—letting others do the work for you—all else constant.

One lesson that emerges from scholarly research is that political entrepreneurs can solve the collective-action problem. More effective groups are those where some members care enough about the group to take on the cost of coordinating, communicating and mobilizing other individuals. These groups become organized and function as interest groups. Elected politicians often play the role of political entrepreneur, but outside actors, be they existing interest groups, candidates-in-waiting or concerned citizens, may also play the role of political entrepreneur.[8] However, unlike incumbent politicians, outside political entrepreneurs often lack a public platform from which to communicate and do not have a professional staff to help organize group members. For these reasons, grassroots lobbyists rely on patrons and contributors to provide resources to inform, coordinate and mobilize group members.

Seen in this light, the frequent assumption that authentic grassroots lobbying can only occur absent political entrepreneurs and professional expertise is simply ridiculous. Unorganized and ordinary citizens with legitimate and latent preferences for policy cannot be expected to monitor the legislative calendar constantly just in case an item of concern should pop up; nor can ordinary citizens be expected to fully comprehend the legislative process so that they can contact the appropriate committee members at the appropriate time. Advocacy groups and other entrepreneurs provide a valuable function for unorganized interests by monitoring legislation and sending action alerts when appropriate, as well as helping to coordinate grassroots action for maximum effect by informing people about the issues at hand, the relevant actors to contact and the time frame for action.

Far from being a suspect enterprise, political entrepreneurship is a necessary condition for vigorous and robust grassroots lobbying. If anything, it is the absence of such activity that should cause concern, since it would mean that latent groups are left unorganized and their preferences likely ignored by the

political process. Unfortunately, regulations in numerous states are creating just such a dynamic.

How Overbroad Lobbying Regulations Hamper Grassroots Lobbying

The Supreme Court has long recognized that lobbying is protected by the fundamental First Amendment rights of speech, association and petition;[9] nevertheless, the federal government and all 50 states regulate lobbyists in some fashion. In most cases, lobbyists must register, pay annual fees and disclose gifts and expenditures throughout the year. In addition, several states require lobbyists to undergo training and prohibit lobbyists from making political donations. Finally, lobbyists face administrative fines and even criminal penalties for failing to comply with these regulations.

Statements of intent from lobbying statutes in the states indicate that the primary rationale espoused for regulating grassroots lobbying is that the public has a "right to know who is speaking" and an interest in preserving "the integrity of democracy."[10] For example, Rhode Island's declaration of intent states: "Public confidence in the integrity of the legislative process is strengthened by the identification of persons and groups who on behalf of private interests seek to influence the content, introduction, passage or defeat of legislation and by the disclosure of funds expended in that effort."[11] Similarly, the state of Washington declares: "The public's right to know the financing of political campaigns and lobbying and the financial affairs of elected officials and candidates far outweighs any right that these matters remain secret and private."[12]

These claims are disturbing in several respects. First, the vague reference to the "integrity of democracy" is reminiscent of similar claims made by advocates of restrictive campaign finance laws. However, there is no scientific evidence that restrictive campaign finance laws have much of an impact on citizens' trust in government;[13] and by extension, lobbying disclosure laws are unlikely to have any important effects either. Second, given the important role of grassroots lobbying in fostering citizen participation and acting as a check on legislative gatekeepers and malfeasant representatives, lobbying disclosure laws that raise the costs of such activity may actually undermine the integrity of democracy. Third, these claims ignore the Supreme Court's repeated recognition that mandatory disclosure imposes unacceptably high costs on certain unpopular groups and speakers.[14] Finally, the very notion that disclosure of grassroots lobbying activities is necessary for the public to know "who is speaking" is quite insulting. In essence, it assumes that citizens who contact a legislator as part of a grassroots campaign are just

mindless automatons relaying the voice of the political entrepreneur, rather than concerned citizens expressing their own views.

Despite the dubious rationales for grassroots lobbying disclosure laws, only 14 states think enough of their citizens to permit unregulated grassroots lobbying of legislators, as shown in Table 1; these states regulate traditional lobbying performed by paid agents that communicate directly with legislators but not communications made to the public regarding legislative proposals. Of the remaining states, 22 explicitly define lobbying as direct *and* indirect communication with public officials, and 14 broadly define lobbying as any attempt to influence public officials.[15] Both of these definitions are so broad as to cover a person or group reaching out to fellow citizens to spur them to political action, although state enforcement of these laws against grassroots lobbying efforts may vary across states and over time. Finally, while federal law does not currently mandate disclosure of grassroots lobbying, in 2007 the U.S. Congress did consider a proposal to regulate activities that would "stimulate" grassroots lobbying of federal legislators. Although that measure was defeated, advocates continue to argue for federal regulation.[16]

Table 1: Definition of lobbying

Direct communication with public officials	Arizona, Delaware, Illinois, Iowa (lobbying the executive branch), Kentucky, Louisiana, Maine, Michigan, Nevada, Ohio, Oklahoma, South Carolina, Texas, Utah, Wisconsin
Direct and indirect communication with public officials	Alaska, Arkansas, California, Colorado, Connecticut, Georgia, Hawaii, Idaho, Massachusetts, Maryland, Minnesota, Mississippi, North Carolina, North Dakota, New Jersey, Pennsylvania, Rhode Island, Tennessee, Virginia, Vermont, West Virginia, Wyoming
Any attempt to influence public officials	Alabama, Florida, Iowa (lobbying the legislature), Indiana, Kansas, Missouri, Montana, Nebraska, New Hampshire, New Mexico, New York, Oregon, South Dakota, Washington
Includes any attempt to stimulate grassroots lobbying	Federal grassroots lobbying proposal removed from the Honest Leadership and Open Government Act of 2007

Note: In Oklahoma and Iowa, lobbying is defined broadly; however Oklahoma also exempts "widely distributed" communications, while an advisory opinion by the Iowa Ethics Commission, which has jurisdiction over executive branch lobbying but not legislative lobbying, exempts soliciting others to communicate with public officials.

Regulation of Grassroots Lobbying in the States

Among the 36 states that regulate grassroots lobbying in some fashion, most exempt incidental activity from reporting requirements. As Table 2 shows, the threshold for reporting grassroots lobbying activity—meaning the point at which communications qualify as lobbying regulated under the law—varies considerably across states, but in most instances part-time employment or expenditures of $500 on communications efforts is sufficient to trigger reporting requirements. Consequently, anyone that receives or makes a payment for the purpose of communicating with fellow citizens about pending or proposed legislation is potentially in violation of state laws, even if such payments are limited to reimbursements.

In the 22 states that define lobbying as direct or indirect communication to public officials, the low dollar and hourly thresholds mean that any person or group that is sufficiently motivated to purchase advertising, pay for a website or hire people to make phone calls, knock on doors or prepare a policy report may also be considered a lobbyist, just as long as the purpose of that activity is to try to convince other people to make their voice heard by contacting a public official. In fact, three states, North Dakota, Rhode Island and Wyoming, do not even define a dollar threshold for lobbying, so in those states, any attempt to induce fellow citizens to contact legislators would be considered lobbying.

Further, direct compensation is not the only trigger for being designated a lobbyist; states typically define contributions and expenditures as anything of value, so donated items (office machines or space, photocopying, the use of personal vehicles, etc.) and even volunteering professional services may count as "in-kind" contributions toward a grassroots lobbying campaign. Several states also explicitly include research expenses, such as opinion polling, consulting and the like as part of the expenses associated with grassroots lobbying. Thus, it is not difficult for even ad hoc and informal grassroots groups to qualify as lobbyists in most states. For example, the Connecticut Office of State Ethics informed the Bridgeport Catholic Diocese that it crossed the $2,000 threshold for lobbying by providing bus transportation for parishioners to attend a rally in the state capital.

Furthermore, in the 14 states that define lobbying as essentially any attempt to influence public officials, it is even easier to cross the line into lobbying. In these states, which include Florida, Missouri, New York and Washington, just about any form of participation in public debate will be considered lobbying, as long as the minimum threshold is met. And in such large states, it is difficult to conceive of organizing and mounting a successful grassroots lobbying effort without expending several thousand dollars. An advertisement featuring a single open letter in a major newspaper can be enough to transform a person into a lobbyist.

Table 2: Thresholds for reporting grassroots lobbying activity

Alabama	Any employment or $100 in expenses
Alaska	10 hours employment in a 30 day period
Arkansas	$400 in compensation or expenses in a 90 day period
California	$5,000 in compensation or expenses
Colorado	Any employment
Connecticut	$2,000 in compensation or expenses
Florida	Any employment
Georgia	$250 in compensation or expenses
Hawaii	5 hours employment per month or $750 in expenses in a 30 day period
Iowa	Any employment or $1,000 in expenses
Idaho	$250 in compensation in a 90 day period
Indiana	$500 in compensation
Kansas	Any employment or $100 in expenses
Maryland	$2,000 in compensation or expenses
Massachusetts	$250 in compensation or expenses
Minnesota	$3,000 in compensation, or $250 in expenses
Mississippi	$200 in compensation or expenses
Missouri	Any employment
Montana	$2,500 in compensation
Nebraska	Any employment
New Hampshire	Any employment
New Jersey	$100 compensation or expenses in a 90 day period
New Mexico	Any employment
New York	$5,000 in compensation
North Carolina	$3,000 in compensation or expenses in a 90 day period
North Dakota	No threshold
Oregon	$200 in compensation or expenses in a 30 day period (or $500 in 90 days)
Pennsylvania	$2,500 in compensation or 20 hours lobbying in any quarter
Rhode Island	No threshold
South Dakota	Any employment
Tennessee	Any employment or 10 days lobbying
Virginia	$500 in compensation or expenses
Vermont	$500 in compensation or expenses
Washington	$500 in compensation or expenses in any 30 day period (or $1,000 in 90 days)
West Virginia	$200 in compensation or expenses in any 30 day period (or $500 in 90 days)
Wyoming	Any compensation or expenses
Federal (proposed in 2007)	Federal grassroots lobbying proposal – $25,000 per quarter in compensation or expenses both intended to stimulate grassroots lobbying and directed at 500 or more people.

Note: Annual thresholds, unless otherwise indicated.

Once classified as a lobbyist, an individual or group must not only register and pay a licensing fee, but must also submit periodic reports; however, the reporting requirements for grassroots lobbying differ dramatically across states. In some states financial disclosure is minimal (e.g., South Dakota, which only requires annual registration), but in others, grassroots lobbyists must file quarterly or even monthly expense reports, detailing things such as all legislation that is relevant to the group's activities, the amounts of contributions (including donated items), the names and addresses of contributors and itemized expenditures. For sophisticated professional advocacy groups, most of these reporting requirements are likely just a nuisance, but for ordinary citizens they can be quite daunting.

For example, consider that the state of Washington, which the "Campaign Disclosure Project" recently awarded the highest grade out of all 50 states for its campaign disclosure laws and practices,[17] defines no less than 11 different types of lobbyists. In particular, "grassroots lobbying" is defined as "a program addressed to the general public, a substantial portion of which is intended, designed or calculated primarily to influence state legislation."[18] Any person or organization that sponsors grassroots activities that are not otherwise reportable under one of the other definitions of lobbying must then file an initial grassroots lobbying report within 30 days of initiating any grassroots activity. Grassroots sponsors are then required to file monthly activity reports, as well as a final report once that particular grassroots campaign is completed. These monthly reports require that groups identify not only the topic on which they are focused, but the actual bill, rule or rate number, as well as the names and addresses of all principals or managers of the organization. Grassroots groups must also disclose the names and addresses of all employees or firms hired by the group, including the terms of their compensation. These monthly reports also require the disclosure of contributor names and addresses, as well as contribution amounts. Finally, grassroots lobbying organizations must report expenditures disaggregated by 10 different categories, with separate entries for radio, television and print advertising, as well as for signs and mailings.

Red Tape, Compliance Costs and Legal Traps

One obvious problem with lobbying regulations like these is that they clearly are not intended to be understood by ordinary people. Regulations are written in legalese impenetrable to most citizens, and instructions for completing disclosure forms can be intimidating, as illustrated by Massachusetts' new lobbying law (see "Am I a lobbyist? Massachusetts answers—sort of," next page). I tested the readability of Massachusetts regulations pertaining to grassroots lobbying by running the text of the first paragraph of the grassroots regulations through several different automated readability calculators.[19] For example, the Flesch Reading Ease

AM I A LOBBYIST? MASSACHUSETTS ANSWERS—SORT OF

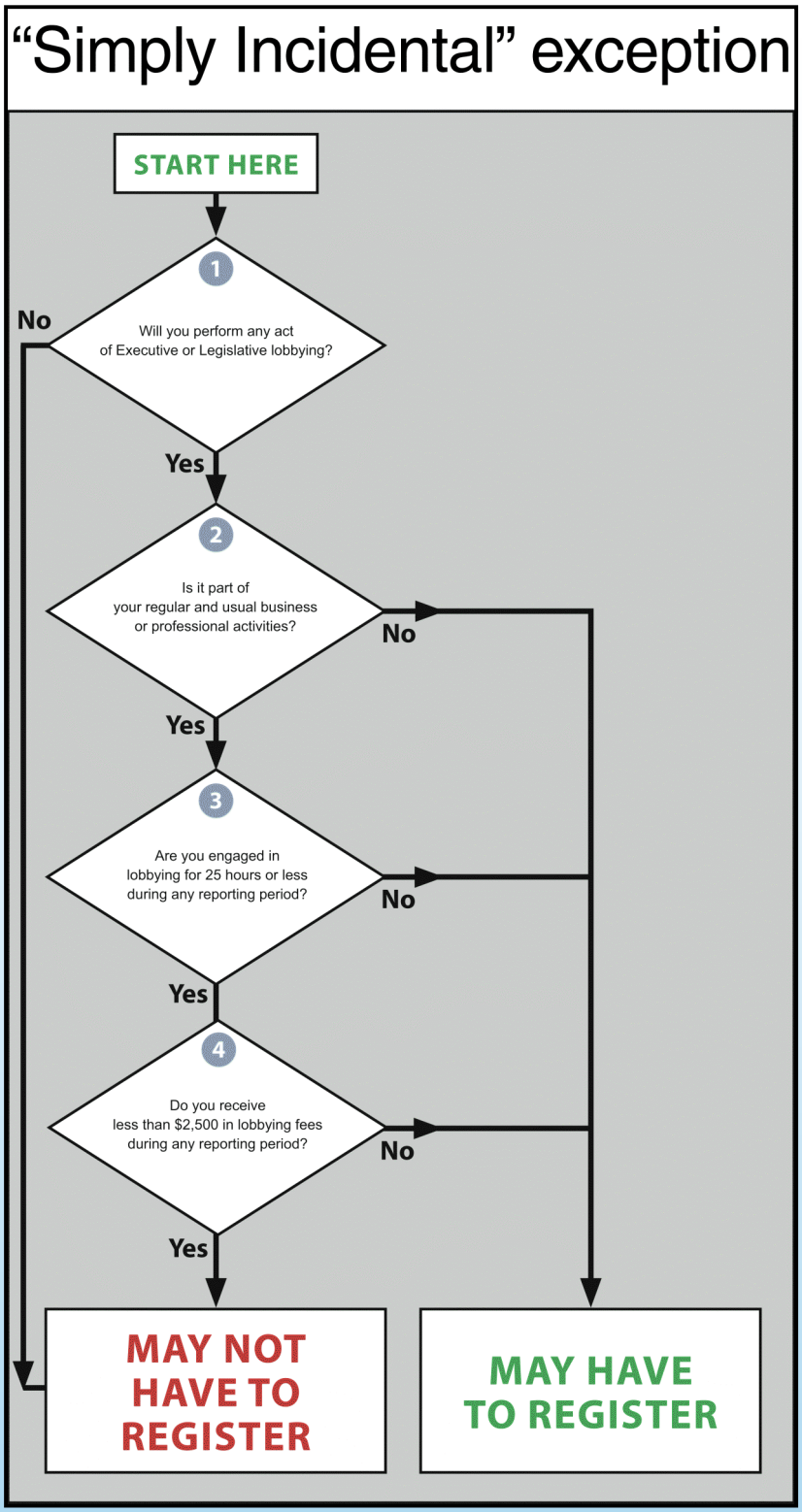
The Secretary of State for the Commonwealth of Massachusetts is required by statute to provide training for lobbyists. Below is an excerpt from the online "educational seminar on lobbying." This seminar is a downloadable handbook that consists of two things: (i) the verbatim text of the relevant statutes and (ii) a disclaimer that warns readers not to rely on the accuracy of the educational handbook, but to instead consult a lawyer.[20]

This is the *first sentence* of the Massachusetts lobbying handbook that relates to grassroots lobbying:

> On or before the fifteenth day of July, complete from January first through June thirtieth; and the fifteenth day of January, complete from July first to December thirty-first of the preceding year, any group or organization, however constituted, not employing an executive or legislative agent which as part of an organized effort, expends in excess of two hundred and fifty dollars during any calendar year to promote, oppose, or influence legislation, or the governor's veto or approval thereof, or to influence the decision of any officer or employee of the executive branch or an authority, including, but not limited to, statewide constitutional officers and employees thereof, where such decision concerns legislation or the adoption, defeat or postponement of a standard, rate, rule or regulation pursuant thereto, or to do any act to communicate directly with a covered executive official to influence a decision concerning policy or procurement shall register with the state secretary by rendering a statement, under oath, containing the names and addresses of the principals of such group or organization, the purposes of the organization, such aforesaid decisions of such employees of the executive branch or an authority or legislation which affects those purposes, the total amount of expenditures, incurred or paid during the reporting period in furtherance of the foregoing objectives and an itemized statement containing all expenditures made for or on behalf of statewide constitutional officers, officers and employees of such offices, members of the general court, officers and employees of the general court, officers and employees of the executive branch and officers and employees of an authority.

The penalty for running afoul of the law described by this dense text supposedly intended to provide clarity is $10,000—per violation.

The Massachusetts Secretary of State website also provides a flowchart (next page) to help people understand whether they must register as a lobbyist. The chart, however, merely indicates the conditions under which you "*may*" or "*may not*" be required to register as a lobbyist.[21]


"Simply Incidental" exception
START HERE
1
Will you perform any act of Executive or Legislative lobbying?
No
Yes
2
Is it part of your regular and usual business or professional activities?
No
Yes
3
Are you engaged in lobbying for 25 hours or less during any reporting period?
No
Yes
4
Do you receive less than $2,500 in lobbying fees during any reporting period?
No
Yes
MAY NOT HAVE TO REGISTER
MAY HAVE TO REGISTER

Score is one of the oldest such methods for judging whether a text can be comprehended by adults; these scores range from zero (least readable) to 100 (most readable), with scores below 30 considered "Very Confusing." The Gettysburg Address has a readability score of 70; the first paragraph of the Massachusetts grassroots lobbying text scores 0.9 on the 100-point scale. In fact, according to the Automated Readability Index employed by the U.S. military for improving technical manuals, a person would need 34 years of formal education to understand that one paragraph on grassroots lobbying. In contrast, the paragraph you are reading now requires less than a college degree by the same measure. These scores imply that even a doctorate from Harvard or MIT (i.e., 20 years of formal education) is not sufficient to comprehend grassroots lobbying regulations in Massachusetts. What's worse, consulting state regulators directly for clarifications about whether you are a lobbyist may even do more harm than good.

I recently conducted a highly informal experiment by contacting the relevant regulatory bodies in two different states to inquire whether the act of soliciting other persons to contact state legislators to promote or oppose a piece of legislation is subject to lobbying regulations in that state; in both cases, the correct answer should have been "yes," at least according to the plain language of the existing state laws. In one state, the regulatory official provided the correct answer. But the staff person that I was referred to in the other state sounded like a game show contestant: "I would have to saaaaayyyyy…… No!" Anyone relying on such advice subsequently could be fined up to several thousand dollars for violating that state's lobbying regulations. If state officials with responsibility for enforcement can be unclear about the law, then what hope do ordinary citizens have in understanding and complying with these regulations?

In earlier research, I conducted a formal experiment on the ability of ordinary citizens to comply with state disclosure forms for grassroots groups that advocate for or against ballot measures; the results of that work are described in *Campaign Finance Red Tape: Strangling Free Speech and Political Debate*, which was published by the Institute for Justice in 2007.[22] Because the disclosure laws for grassroots lobbyists are similar in many respects to those for political committees examined in my earlier research, several lessons from that work apply here as well.

In the "red tape" study, I presented 255 people with a simple scenario of grassroots political activities related to supporting a ballot measure (organizing neighbors, making placards, holding a rally, etc.), and then asked them to complete actual state disclosure forms for ballot committees in California, Colorado or Missouri. While these forms are not identical to lobbying disclosure forms, they are equally unfamiliar to most people. In both cases, ordinary citizens are unlikely to be aware of the existence of such laws, let alone have any experience with compliance. Further, the legal jargon relating to political expenditures, contributions and in-kind

contributions is common to both cases, as is the intimidating statutory language and terse instructions for individuals who must comply with these laws.

Subjects were recruited from my church and local neighborhood, from university administrative staff, graduate students in political science and public affairs, as well as a few graduating seniors at the University of Missouri. In order to encourage subjects to make a good effort at complying with the disclosure regulations, they were paid not only for participation, but could lose some of that money for each error that they made. The subjects were given 90 minutes to complete the exercise, although some quit in frustration well before time was up.

The first lesson from the red-tape experiment was that more than 90 percent of the participants had no idea that they had to register with the state in order to engage in political speech; there is little doubt that most people are similarly ignorant about grassroots lobbying restrictions. Consequently, in most states, as soon as ordinary citizens decide to engage in grassroots activity, they are likely to violate state laws out of sheer ignorance.

Once subjects were informed about the existence of registration and disclosure laws, they were presented with a simple hypothetical scenario of a group of neighbors organizing an informal rally against a local ballot measure. The subjects were then asked to fill out the required paperwork for this group; the scenario included one purchase of a print advertisement, the purchase and distribution of T-shirts with political slogans, the distribution of home-made signs and a total of ten contributions of varying sizes. The results were not pretty.

In Table 3, I list disclosure tasks required for grassroots lobbying in the state of Washington alongside similar tasks required by California law that were examined in the disclosure experiment. In the last column of Table 3, I report the percentages of experimental subjects that could actually perform those tasks using the California forms. Nearly all the subjects incorrectly handled a large (illegal) anonymous contribution, while most never recognized that non-monetary donations were also supposed to be treated as contributions to their group. However, many subjects could not even correctly account for direct cash contributions and expenditures because they simply could not understand or follow the complicated forms and instructions. Subjects fared slightly better at these tasks when given disclosure forms for Colorado and Missouri, but overall, subjects were only able to complete about 40 percent of the assigned tasks. No one received a perfect score.

The results of this experiment unambiguously reveal that subjects, regardless of age or educational attainment, were simply flummoxed when confronted with real-life disclosure forms and instructions. I also offered

participants in the experiment the opportunity to write a brief comment about their experience. Not surprisingly, many subjects expressed frustration, calling the process "confusing," "ridiculous" and "worse than the IRS!" Several said they would need a lawyer to complete the forms, including the lawyer who participated in the experiment. Finally, nearly 90 percent of the participants agreed that the specter of complicated red tape and legal penalties would deter ordinary citizens from political activity.

Table 3: Disclosure tasks for grassroots lobbying and the compliance experiment

Tasks required by state disclosure regulations			Compliance experiment (% correct)
	Grassroots lobbying (Washington state)	Ballot committees (California)	
Required to register	If spending $500 in one month or $1,000 in three months	If receiving $1,000 in any calendar year	7%
Report expenditures	In each of ten categories	Itemize if over $100	49%
Report monetary contributions	Itemize if over $25	Itemize if over $100	56%
Report non-monetary contributions	Itemize if over $25	Itemize if over $100	18%
Anonymous contributions	Prohibited over $25	Prohibited over $100	2%

Notes: Percent of subjects correctly reporting contributions and expenditures is the average score for each type of task for subjects using California forms (scores are adjusted for subject characteristics to reflect the performance of a non-student registered voter with a college education).

Aside from these compliance costs, grassroots lobbying regulations set numerous traps for hapless citizens that seek to exercise their constitutional rights. It strains credulity to think that ordinary citizens would have the faintest idea that they should register with the state and consult a lawyer before speaking to fellow citizens about public issues. Second, my reading of the rules for every state that regulates grassroots lobbying confirms that these laws are as complex as those for ballot measure disclosure; it is simply inconceivable that these regulations were written in a manner intended to be accessible to an ordinary citizen. It seems clear that the implicit assumption behind these laws is that politics is for "professionals only."[23] Third, several states require that lobbyists register *prior* to engaging in any grassroots activities (which can include research or other preparation costs). Combine this with the overbroad definitions of lobbying in most states and it is easy

Table 4: Examples of penalties related to grassroots lobbying

State	Maximum administrative and civil fines		Maximum criminal penalties
	Late reports	Other violations	
Alabama		$10,000	$30,000 and 20 years
Alaska	$10/day		$1,000 and 1 year
Arkansas	$25-$200/day	$1,000	$1,000 and 1 year
Colorado	$10/day		$5,000 and 1 year
Connecticut		$10,000	
Hawaii		$2,000 per violation	
Idaho			$2,500 and 6 months
Indiana	$100	$100 for late reports	$500 and 3 years
Kansas		$5,000	$1,000 and 6 months
Massachusetts	$100/day		$10,000 and 5 years
Minnesota		$100 per violation	$3,000 and 1 year
Missouri			$5,000 and 4 years
Mississippi			$5,000 and 3 years
Montana		$2,500 per violation	
North Carolina		$5,000 per violation	6 months
North Dakota			$1,000 and 30 days
Nebraska		$750 per report	
New Jersey		$1,000 per violation	
New Mexico	$50/day	$5,000	
New York		$50,000	$5,000 and 4 years
Pennsylvania	$50/day	$2,000 per violation	$25,000
Rhode Island		$2,000	$10,000
Tennessee	$2,000	$10,000	$2,500 and 1 year
Virginia			$2,500 and 10 years
Vermont	$4,175	$10,000 per violation	
West Virginia		$5,000 per violation	
Washington		$10,000	
Federal proposal (2007)		$100,000	

Notes: This list is not exhaustive, but represents only those penalties that are readily identifiable from state statutes and regulations.

to see how ordinary citizens might run afoul of lobbying laws that they did not know existed and cannot understand anyway.

Not only is it easy for ordinary citizens to violate lobbying disclosure laws by engaging in grassroots lobbying, the penalties for doing so can be quite severe, as shown in Table 4. While some states set a maximum for late fees and fines, several do not. But what should be most disconcerting is that many states allow fines to be levied on a per violation basis; given multiple and complicated reports, it is easy for

such fines to mount quickly. In addition, several states impose criminal penalties for disclosure violations, ranging as high as 20 years in prison in Alabama for intentional misreporting. Finally, several states also ban lobbyists from making campaign contributions, so someone engaging in grassroots lobbying can not only violate lobbying rules, but campaign finance laws as well.

Unintended Consequences of Lobbying Disclosure

The costs of disclosure laws are not limited to the hassle, frustration and penalties associated with red tape requirements. The existence of overbroad and vague regulations on political activities, coupled with steep civil and criminal penalties, is an invitation for abuse at the hands of unethical and partisan regulators, as the plight of Reverend Lori in Connecticut illustrates (see page 5). Furthermore, lobbying disclosure requirements ignore the important and long-accepted role of anonymity in public debate.

It seems unlikely that knowledge about who contributed $20 to a grassroots campaign is of much benefit to the public, especially compared to the costs imposed on those who wish to speak out. In fact, there is good reason to be skeptical about the efficacy of disclosure laws; in a recent examination of mandatory disclosure laws in ballot-initiative campaigns, Dick Carpenter finds little evidence that voters make use of mandatory disclosure.[24] For example, a representative survey of citizens in six states with ballot initiatives reveals that only about 27 percent of respondents claim that they sought out information on donors to political campaigns, and fewer than half expressed much awareness of the leading donors to ballot measure campaigns. These self-reports by survey respondents are also consistent with content analyses of campaign materials and news coverage of campaigns that find few information sources available to voters—namely newspapers and other media—make use of mandatory disclosure of contributor identities either.[25]

Carpenter also finds that upwards of 80 percent of respondents believe that mandatory disclosure is acceptable when applied to others, but only 40 percent support such laws when framed as applying to themselves. In fact, when such disclosure laws are described as also requiring respondents to divulge their employer's name, support for mandatory disclosure falls to just 25 percent. Given this discomfort for disclosing personal information, it is not surprising that about 60 percent of the survey respondents also agree that the presence of mandatory disclosure laws would be a deterrent to their own political activity. The reasons given by respondents include a desire to remain anonymous, fear of harassment and privacy concerns.

THINKING ABOUT GETTING INVOLVED?
DON'T DO THE CRIME IF YOU CAN'T DO THE TIME

Failure to properly disclose grassroots lobbying activity is punishable by administrative fines, suspension of lobbying privileges and in some states even criminal penalties. For example, in the following states, disclosure violations for grassroots lobbying carry the same maximum criminal penalty as:

North Dakota	Driving under the influence *$1,000 and 30 days in jail*
Tennessee	Negligently discharging raw sewage into public waterways *$500 and 6 months in jail*
Indiana	Receiving stolen property *$500 and 3 years in jail*
Minnesota	Repeated assault against the same person *$3,000 and 1 year in jail*
Missouri	Sexual misconduct with a minor *$5,000 and 4 years in jail*
New York	Arson or riot *$5,000 and 4 years n jail*
Massachusetts	Maintaining a house of prostitution *$10,000 and 5 years in jail*
Virginia	Hit and run resulting in serious injury or death *$2,500 and 10 years in jail*
Alabama	Kidnapping *$30,000 and 20 years in jail*

These findings underscore the shallowness of popular support for disclosure regulations in the abstract, and the very real discomfort that many people have with having their own political activities announced in public. Consequently, concerns that mandatory disclosure may have a chilling effect on grassroots political activity are well-founded. So, while mandatory disclosure applied to grassroots lobbying campaigns at best satisfies the curiosity of a few political junkies, it also at worst empowers the enemies of free and open debate to make credible threats of retaliation against unpopular voices.

Grassroots Lobbying Versus "Astroturf Lobbying"

Critics of grassroots lobbying often use the disparaging term "Astroturf lobbying" to imply that some grassroots efforts are "inauthentic," but when it comes to such charges, authenticity is in the eye of the beholder. Whether it is grassroots activism directed at the Iraq war, health insurance reform, campaign finance reform or just about any other issue, antagonists on both sides of the issue try to undermine the credibility of their opponents by exaggerating the extent to which public concern on the other side is "artificially" stimulated.[26] For this reason, attempts to curb so-called Astroturf lobbying through increased state and federal regulations and even public "outing" and shaming of accused ringleaders must be treated with healthy skepticism.

It is easy to understand why incumbent politicians and partisans attempt to dismiss demonstrations of contrary views as insincere and illegitimate: pure self-preservation. Harder to fathom is why so many progressive-minded and self-described "good government" reformers are often found on the front lines seeking to curb grassroots lobbying. Such actions betray a fundamental misunderstanding, since the very idea that coordination and leadership makes a popular movement suspect flies in the face of decades of political science research on political entrepreneurship and collective action.

In the case of actual fraud, the distinction between "authentic" and "inauthentic" political pressure makes sense, but beyond that the distinction becomes meaningless. For example, if legislators receive fraudulent messages from a single source posing as multiple constituents, such an activity does not represent public sentiment, regardless of how it was stimulated. Of course, it is not necessary to regulate grassroots lobbying in order to deter such fraud. Laws forbidding identity theft, fraud or false statements to government officials, as well as the possibility of discovery and the attendant harm to the source's cause, should keep this practice, even when it is not obvious, to a minimum.

Even so, actual instances of fraudulent lobbying appear to be extremely rare and easily discovered, while accusations of Astroturf lobbying are ubiquitous. This is because "Astroturf" lobbying is nearly always used to refer to instances of citizen lobbying that have somehow been induced by the participation of an advocacy group, lobbyist, public relations firm or some other "artificial means." This jaundiced view denies the important role that political entrepreneurs play in fostering grassroots activism, while at the same time disparaging the competence and autonomy of people who choose to join such grassroots campaigns. But more than this, the notion that grassroots campaigns are legitimate only if they are unsophisticated and amateurish is akin to saying, "You have the right to petition, just as long as you're not too effective at it."

Conclusion

The two pillars of representative democracy are free and open elections and free and open debate. Popular political participation is so fundamental to American democracy that the Bill of Rights enshrines citizens' rights to speech, association and petition in the First Amendment to the Constitution. Every school child is taught that America is great because citizens speak out on issues of public concern and bring their arguments directly to politicians. In fact, many probably still recall the classic 1975 "Schoolhouse Rock!" segment on how a bill becomes a law ("I'm Just a Bill"), in which legislation requiring school buses to stop at railroad crossings starts with "just an idea" until some "folks back home" decide they want a law passed and contact their congressman. But today, should you decide to exercise your rights as an American with only civics lessons and the Bill of Rights as your guide, beware.

The rights of citizens to participate in their government have been eroded to the point that even professional politicians and lobbyists often must rely on a staff of dedicated legal experts to navigate the maze of federal and state regulations that now govern public discourse. Regulation of grassroots activism in the states stands in stark contrast to the basic principle affirmed in the recently decided *Citizens United* v. *Federal Election Commission*:

> The First Amendment does not permit laws that force speakers to retain a campaign finance attorney … or seek declaratory rulings before discussing the most salient political issues of our day. Prolix laws chill speech for the same reason that vague laws chill speech: People "of common intelligence must necessarily guess at [the law's] meaning and differ as to its application."[27]

Nevertheless, under the guise of preserving the integrity of democracy, misguided populists and cynically self-interested politicians have successfully

pushed for campaign finance and lobbying disclosure regulations that actually hinder political competition among both candidates and ideas.

Perhaps the most disturbing aspect of recent reforms is the ardor with which so-called reformers seek to control and limit grassroots lobbying. The recent push to expand the reach of lobbying regulations into the public square has led to the passage of overly broad and vague state laws that make a potential criminal offense out of just about anything a citizen might do to participate meaningfully in politics. And just as the states are considering reforms to further "rein in" grassroots lobbying, the federal government may well follow suit. Although the 2007 proposal to regulate anyone spending $25,000 in a quarter for the purpose of "stimulating" grassroots lobbying failed to pass Congress, so-called reformers continue to press for regulation. Given the tenor of current debates over health reform and cap-and-trade, and the disturbingly blithe manner with which many politicians dismiss popular concern as "manufactured" opinion, it seems a safe bet that federal grassroots lobbying will again be on the congressional agenda.

But regulation of grassroots political activity puts ordinary citizens at risk of legal entrapment, leaves disfavored groups open to abuse from partisan regulators and robs unpopular speakers of the protective benefits of anonymous speech. Worst of all, these very real costs come without any real public benefit. Elected officials would do better to listen to constituent concerns or debate ideas in the open, as the framers of the First Amendment intended, rather than mowing down the grassroots with regulation.

Endnotes

[1] www.acluva.org/pages/grassrootslobbyform.html.

[2] The political science literature also supports the notion that grassroots lobbying can influence policy, although the concern is that the presence of "reverse causality" may exaggerate the perceived effect of grassroots lobbying. In other words, because people are more likely to join and actively participate in powerful groups, the true impact of grassroots lobbying is less than would be commonly perceived. However, recent field experiments confirm the potentially large impact of grassroots lobbying on state legislators (Bergen, Daniel E., 2009. "Does Grassroots Lobbying Work?" A Field Experiment Measuring the Effects of an e-Mail Lobbying Campaign on Legislative Behavior," *American Politics Research*, 37(2): 327-352).

[3] http://www.cfainc.org/articles/legislative/grass-roots-lobbying.html.

[4] http://www.nvfc.org/page/684/Volunteer_Fire_Service_Advocacy_Center.htm.

[5] E.g., Hayek, Friedrich A. 1960. *The Constitution of Liberty.* Chicago: University of Chicago Press.

[6] Carney, Timothy. "Connecticut uses lobbying laws to muzzle priests," *Washington Examiner*, July 9, 2009, viewed at: http://www.washingtonexaminer.com/politics/Connecticut-uses-lobbying-laws-to-muzzle-priests--47458612.html. Dixon, Ken. "Thousands in Hartford to Protest Bill," *Connecticut Post Online*, March 11, 2009, viewed at: http://www.ctpost.com/default/article/Thousands-in-Hartford-to-protest-bill-114166.php. "Grassroots Lobbying to Protect the Separation of Church and State," *Holtzman Vogel Law and Policy Update*, Summer 2009, viewed at: http://www.holtzmanlaw.net/upload_files/Law%20&%20Policy%20Update%20-%20Summer%202009.pdf. "Thank You! Catholics across the State of Connecticut mobilize and defeat the irrational, unlawful, and bigoted Proposed Bill #1098," Roman Catholic Diocese of Bridgeport, viewed at: http://www.bridgeportdiocese.com/Fight_1098.shtml.

[7] E.g., Olson, Mancur, 1965. *The Logic of Collective Action: Public Goods and the Theory of Groups.* Harvard University Press.

[8] Denzau, Arthur and Michael Munger, 1986. "Legislators and Interest Groups; How Unorganized Interests Get Represented," *American Political Science Review*, 80(1): 89-106.

[9] *United States v. Hariss*, 347 U.S. 612 (1954) and *Eastern Railroads President Conference v. Noerr Motor Freight, Inc*. 365 U.S. 127.

[10] Also see, Maskell, Jack, 2008. "Grassroots Lobbying: Constitutionality of Disclosure Requirements," Congressional Research Service (updated), RL33794.

[11] Rhode Island Gen. Laws 1956, § 22-10.

[12] RCW 42.17.010 (10).

[13] Primo, David and Jeffrey Milyo, 2006. "Campaign Finance Laws and Political Efficacy: Evidence from the States," *Election Law Journal*, 5(1): 23-39.

[14] *Thomas v. Collins*, 323 U.S. 516 (1945); *NAACP v. Alabama*, 357 U.S. 449 (1958); *Talley v. California*, 362 U.S. 60 (1960); and *McIntyre v. Ohio Elections Commission*, 514 U.S. 334 (1995).

[15] I classify states that regulate grassroots lobbying based on the plain text of existing state statutes. For example, by statute, Alaska defines lobbying as communicating with public officials either directly or through an agent (AS 24.45.171(11)(A)); further, the definition of payments or expenditures for lobbying includes "the cost of soliciting or urging other persons to enter into direct communication with a legislator or other public official …" (AS 24.45.171(13)(E)). Therefore, I classify Alaska among those states that regulate grassroots lobbying. However, enforcement of such provisions is always subject to the discretion of state regulators, so current practice may not be consistent with the text of state laws in any given state and at any given time.

[16] http://www.creators.com/opinion/jacob-sullum/astroturf-and-sunlight.html.

[17] http://www.campaigndisclosure.org/gradingstate/wa.html.

[18] "Lobbyist Reporting: January 2009 Instruction Manual," Washington State Public Disclosure Commission.

[19]Online readability calculators are available from several sources; for the examples in the text, I used the automated calculator found at: www.editcentral.com.

[20] Registered lobbyists in Massachusetts are required to complete an "online Lobbyist Educational Seminar" as indicated here: http://www.sec.state.ma.us/LobbyistWeb/Common/Signin.aspx?ReturnUrl=%2fLobbyistWeb%2fdefault.aspx. However, the so-called educational seminar consists of simply the text of the lobbying statute itself (M.G.L. Chapter 3: sections 39-50), albeit preceded by this disclaimer: "This Educational Seminar is a presentation of the Massachusetts lobbying law and its requirements. It is not meant to serve as an advisory opinion or as a substitute for an official edition of the Massachusetts General Laws or the advice of counsel." http://www.sec.state.ma.us/pre/prepdf/OnlineSeminar_V1.pdf. In other words, the Secretary of State will not even commit to cutting-and-pasting the text of the law correctly.

[21] Flowchart available at http://www.sec.state.ma.us/pre/prepdf/areyoulobbying.pdf.

[22] Milyo, Jeffrey, 2007. "Campaign-Finance Red Tape: Strangling Free Speech and Political Debate," Institute for Justice (Washington, D.C.).

[23] Carpenter, Dick, Jeffrey Milyo, and John K. Ross, 2009. "Politics for Professionals," *Engage: The Journal of the Federalist Society Practice Groups*, 10(3): 80-85.

[24] Carpenter, Dick M., 2009. "Mandatory Disclosure for Ballot-Initiative Campaigns," *The Independent Review*, 13(4): 567-583.

[25] In addition to Carpenter (2009), see: LaRaja, Raymond J., 2007. "Sunshine Laws and the Press: The Effect of Campaign Disclosure on News Reporting in the American States," *Election Law Journal*, 6(3): 236-250.

[26] E.g., Pulizzi, Henry, 2009. "White House Not Concerned Health-care Protests Will Derail Reform," Dow Jones Newswire, August 4, 2009, viewed at: http://www.nasdaq.com/aspx/stock-market-news-story.aspx?storyid=200908041043dowjonesdjonline000465&title=white-house-not-concerned-health-care-protests-will-derail-reform.

[27] (558 U.S. ___ 2010; slip opinion p. 7).

ABOUT THE AUTHOR

JEFFREY MILYO, PH.D. Jeffrey Milyo is the Hanna Family Scholar in the Center for Applied Economics at the University of Kansas School of Business; a professor in the department of economics and the Truman School of Public Affairs at the University of Missouri; a senior fellow at the Cato Institute and an academic advisor to the Center for Competitive Politics. Milyo previously was on the faculty at the University of Chicago and at Tufts University; he has also been a visiting scholar at the Massachusetts Institute for Technology, Stanford University, Washington University in St. Louis and Yale University.

Dr. Milyo's research expertise is in American political economics and public policy; he has been studying the field of political campaign finance for 18 years. Milyo's work has been published in several leading scholarly journals, such a the *American Economic Review*, the *Quarterly Journal of Economics*, the *Journal of Law and Economics*, the *Journal of Policy Analysis and Management*, *Election Law Journal*, *Public Choice*, and *State Politics and Policy Quarterly*. In addition, his scholarly research has been recognized and supported by the National Science Foundation and the Robert Wood Johnson Foundation. Dr. Milyo's research is also frequently cited in the national media, including *The New York Times*, *The Washington Post*, *Los Angeles Times*, *Chicago Tribune*, *USA Today*, *Business Week*, *National Review*, *The Weekly Standard*, CNN, FOX News and National Public Radio.

ABOUT THE INSTITUTE FOR JUSTICE

The Institute for Justice is a nonprofit, public interest law firm that litigates to secure economic liberty, school choice, private property rights, freedom of speech and other vital individual liberties and to restore constitutional limits on the power of government. Founded in 1991, IJ is the nation's only libertarian public interest law firm, pursuing cutting-edge litigation in the courts of law and in the court of public opinion on behalf of individuals whose most basic rights are denied by the government. The Institute's strategic research program produces high-quality research to inform public policy debates on issues central to IJ's mission.

Institute for Justice
901 N. Glebe Road
Suite 900
Arlington, VA 22203
www.ij.org

p 703.682.9320
f 703.682.9321