

**ETHICS REPORTER**

**February, 2022**

Kentucky Legislative Ethics Commission

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***Lobbying spending takes bronze medal for January***

January 2022’s lobbying spending was the third highest ever for the month of January, at just over $2.4 million, despite the continuing effects of the pandemic.

The last even-year session in 2020 saw a new record for the first month: lobbying spending hit $2,621,078, breaking the previous spending record for the first month of an even year, 60-day legislative session, by $5,267 over the previous all-time January record reached in January, 2018.

There are 784 businesses and organizations lobbying the General Assembly, with 646 lobbyists working for those employers.

This past month’s lobbying spending is led by the **Kentucky Chamber of Commerce**, which spent $41,157 last month. The **Chamber** listed 42 bills on its disclosure on which it is lobbying, including bills relating to unemployment insurance, workers compensation, occupational safety and health, sick leave, parental leave, wages, public procurement, COVID vaccines, expungement, teachers, scholarships, early literacy, graduation requirements, school councils, smoking discrimination, long term care, taxation, limiting liability, and lung cancer screening.

**American Civil Liberties Union of KY (ACLU)**, was the second-leading spender at $39,478, listing 28 bills on its disclosure, which encompass issues related to justice reform, reproductive rights, free speech, abortion, LGBTQ issues, anti-trans legislation, maternal mortality, substance use and pregnancy, civil liberties, expungement, voting, juvenile justice, and marijuana.

The other top 10 spenders were: **Kentucky Hospital Association** ($37,602); **Kentucky League of Cities** ($26,114); **Altria Client Services LLC** (Philip Morris)($24,648); **Pace-O-Matic of Kentucky** ($20,500); **Anthem, Inc. and Its Affiliates** ($17,500); **Kentucky Automobile Dealers Assn.**(KADA)($17,500); **Kentucky Justice Association** ($16,872); and **Wine & Spirits Wholesalers of KY** ($16,065).

The rest of the spending top 20 are: **Kentucky Association of Electric Cooperatives** ($15,456); **Kentucky Retail Federation** ($14,890); **Kentucky Farm Bureau Federation** ($14,437); **Pharmaceutical Care Management Assn.** ($14,167); **Greater Louisville, Inc.** ($14,006); **Kentucky Bankers Association** ($13,945); **Kentucky Education Association** ($13,529); **Kentucky State Building & Construction Trades Council** ($13,050); **American Wagering, Inc. Caesar’s Digital** ($13,000); and **Academic Partnerships, LLC** ($12,500).

The Legislative Ethics Commission’s searchable register of lobbyists and employers is online at <http://apps.klec.ky.gov/searchregister.asp> Additionally, employers are required, during the legislative sessions, to list specific bill numbers on which they lobby, and a list of those is available on the KLEC website at <https://klec.ky.gov/Reports/Pages/Employers-and-Legislative-Agents.aspx> (under “Bills Lobbied”). Amounts spent on lobbying, required to be disclosed to KLEC 6 times per year, may be found under the same link.

***Legislative Fundraising Reminders***

The Code of Legislative Ethics impacts legislative campaign fundraising, and includes several provisions that apply specifically during a **regular session of the General Assembly**.  Here’s a summary of key ethics law provisions as they apply to legislators, legislative candidates, lobbyists, and employers of lobbyists.

Lobbyists and employers, as well as legislators and legislative candidates, need to pay particular attention to the Ethics Code requirements regarding campaign contributions, as the election season for the Kentucky Legislature begins.

Members of the General Assembly, and candidates for the General Assembly, are prohibited from accepting a campaign contribution from a registered lobbyist **at any time**. Lobbyists may not make a campaign contribution to a sitting member of the General Assembly, nor a candidate for General Assembly, or their campaign committee, and may not serve as a campaign treasurer, nor directly solicit, control, or deliver a campaign contribution, for a candidate or legislator.

Legislators and legislative candidates are prohibited from accepting a campaign contribution from an employer of a lobbyist or from a PAC during a regular session of the General Assembly. During a regular session, an employer of a lobbyist shall not make a campaign contribution to a legislator, candidate, campaign committee for a legislator or candidate, or caucus campaign committee. The in-session prohibition on employer campaign contributions applies to the individual who is listed as the employer contact person. The in-session prohibitions do not apply to candidates for a special election during the regular session.

 These prohibitions also apply to other state races, such as a judicial or other state or local office for which the legislator is running. However, they would not apply to a candidate for federal office.

Although barred from making a campaign contribution to a legislator or legislative candidate, a lobbyist is permitted to express political views in many other ways, including speaking in favor of a legislator or candidate, displaying yard signs, or volunteering for a campaign in a capacity ***that does not involve providing services for which the lobbyist would ordinarily be paid***, or fundraising for state or local candidates who are not sitting legislators or legislative candidates.

While legislators are prohibited from soliciting contributions from a lobbyist, a lobbyist is free to make a contribution to a political party so long as the contribution is to the party generally and is not earmarked for any particular legislative campaign or legislator.  A lobbyist may attend campaign and party fundraisers, as long as the lobbyist does not contribute to a legislator or legislative candidate, and does not purchase a ticket that is actually a campaign contribution to a legislator or legislative candidate.

***Additionally, legislative lobbyists or employers who state or imply that campaign contributions given to legislators are in return for legislative action, that contributions are in direct consideration of legislation, or who speak with legislators about offering campaign or political support during meetings about legislation, particularly in the legislative offices, not only run afoul of the Legislative Ethics Laws, but may also violate campaign finance and federal corruption laws.  This may lead to the impression that a quid pro quo type arrangement is being sought.  Lobbyists, again, are prohibited from controlling campaign contributions as stated above, and should make sure that they are not making any such linkage between legislative action and political contributions. If you have any question about whether a particular activity may violate the Ethics Code, please contact us prior to taking such action.***

***Financial disclosures of Legislators & Candidates available on Ethics Commission website***

As provided in the Legislative Ethics Code, all legislators and candidates for the legislature must file financial disclosure statements. These financial disclosure statements will be posted on the Legislative Ethics Commission’s website at <https://klec.ky.gov/Reports/Pages/Legislators-and-Candidates.aspx> .

***Newly-registered lobbying employers & terminations***

Lobbying employers which have recently registered to lobby include: **Academic Partnerships LLC**; **American Industrial Hygiene Association**; **Americans United for Separation of Church & State**; **Ancestry**; **Benevis Dental Practice Management Services**; **Cannon Cochran Management Services, Inc.**; **Child Care Council of KY, Inc.**; **Community Choice Financial**; **Companions & Animals for Reform & Equity (CARE)**; **Cumberland Capital Partners**; **Dialysis Patient Citizens**; **Diligent Ventures LLC**; **Financial Industry Regulatory Authority**; **Harp Enterprises**; **Healthcare Distribution Alliance**; **Herschend Entertainment Company, LLC**; **Iron Mountain; Jockey Club (The)**; **KY Academy of Science**; **KY Group Self-Insurance Guaranty Fund**; **KY River Resources**; **McLane Company, Inc.**; **MedImpact Healthcare Systems, Inc.**; **Mountain Comprehensive Care Center**; **Open Road Foundation**; **Pearson Education Limited**; **Preservation Kentucky, Inc**; **Simmons College of Kentucky**; **State Privacy & Security Coalition, Inc.**; **Stelco Inc.**; **Teladoc Health, Inc.**; **Trevor Project, Inc.**; **Urban Academy**; **US Chamber of Commerce**; and **Wireless Infrastructure Association**.

**Kentucky Cannabis Company** recently terminated its lobbying registration.

***Reminder about lobbying report deadlines***

By **Tuesday, March 15, 2022** all lobbyists and employers are required to file Updated Registration Statements for the period of February 1 through February 28, 2022**.**

The easiest and quickest way for lobbyists and employers to file is to visit the Commission’s website <https://apps.klec.ky.gov/lec/onlinefiling.aspx>

***Training for Lobbyists and Employers on video***

The Legislative Ethics Commission has a training video from one of our in-person lobbyist and employer trainings on the LRC Capitol Connection YouTube page, for viewing at any time. The link is on our website, and also on the LRC Capitol Connection page at <https://www.youtube.com/watch?v=ojKIWUNV8po&feature=youtu.be>. The video walks through the online filing process in step-by-step detail. The Commission staff are available for in-person training as well, so give us a call if needed.

***Overview of Legislative Ethics Code online***

#### The Legislative Ethics Commission has a PowerPoint overview of the Legislative Ethics Code available for reference. The link is on our website, and also on the LRC Capitol Connection page at <https://www.youtube.com/watch?v=I4FJvhrSoao>. Feel free to watch!

#### ***Commission Office Procedures and COVID-19***

Following guidance from federal, state, and local officials regarding the COVID-19 pandemic, the Commission halted in-person services at its Frankfort office as of Tuesday, March 17, 2020.

As of **July 1, 2021**, the Commission office re-opened its office to the public. We request that you wear a mask when visiting our office. Also, we would be happy to speak to you over the phone or via Zoom.

We encourage you to continue to contact us via the means listed below, and by filing electronically or by scanning paperwork and emailing it to us. If you need to send the Commission copies of paperwork, it is most efficient to scan and email it to the email addresses as listed on the staff page, or fax to the number below.

Legislators, staff, lobbyists, employers, and the public may continue to contact the office by phone at (502) 573-2863, by fax at (502) 573-2929, and via the email addresses listed on the staff page: <https://klec.ky.gov/About-KLEC/Pages/Commission-Staff.aspx>

You may reach Laura Hendrix, Executive Director, at (502) 573-2910, Emily Dennis, Counsel, at (502) 573-2911, and Lori Smither, Staff Assistant, at (502) 564-9084. You may reach Donnita Crittenden, Executive Assistant, at the main Commission number (502) 573-2863.

Continued thanks to the many lobbying entities who have honored our request to begin filing online, and those who have utilized this service for many years. If a lobbyist or employer is currently filing disclosures by paper and would like to file online, please email us and we can contact you with an ID and password.

If an entity needs to register as a lobbyist or employer, please email the required scanned paperwork to Donnita Crittenden or Lori Smither at the staff emails in the link above or fax them to (502) 573-2929. Blank forms may be found here <https://klec.ky.gov/Forms/Pages/Get-Blank-Forms.aspx>

All provisions of the Code of Legislative Ethics are in force during this time. If there is a need for an opinion about the application of the Code to any particular ethical issue that may arise, please continue to contact us and we will answer your questions.

***Ethics & Lobbying News from around the U.S.***

***Female Nebraska lawmakers call for change amid photo probe***

**NEBRASKA**– ***Associated Press*** – by Grant Schulte-- February 22, 2022

**Lincoln** – Several female Nebraska state lawmakers on Tuesday railed against the Legislature’s handling of a male state senator who resigned after admitting that he took photos of a female subordinate without her consent, calling for an overhaul of their internal policies and recounting their own experiences of being groped, harassed and belittled.

The push by half a dozen female lawmakers from both parties in the officially unicameral Legislature came less than a day after state Sen. Mike Groene, of North Platte, abruptly stepped down and abandoned his campaign to be a University of Nebraska Regent.

Groene, a blunt and often abrasive lawmaker, acknowledged Friday that he took photos of the legislative staffer in his office. But he said none of the images were sexual in nature and that he also snapped pictures of other staffers and office visitors, including his wife.

The former staffer, Kristina Konecko, filed a complaint with the Legislature’s Executive Board in which she described the photos as “objectifying and demeaning.” She said some included zoomed-in close-ups of provocative body parts with explicit subject lines — an allegation Groene has denied.

Konecko, who consented to have her name used, told The Associated Press that no one pressured her to come forward with the complaint against Groene or tried to stop her. She declined to comment further on her allegations, citing an investigation launched by lawmakers.

The female lawmakers said Tuesday that the Legislature’s method of handling such complaints isn’t adequate. Several called for the creation of a legislative ethics committee, which was an idea that was briefly floated after another former lawmaker, state Sen. Bill Kintner, acknowledged that he had cybersex with a woman using his state-issued laptop.

State Sen. Wendy DeBoer, of Bennington, said she had an encounter years ago that led her to question herself and affected how she interacted with others. DeBoer said she became wary around other men and would ask herself if it was OK to wear certain colors of clothing.

“If you haven’t had something like this happen to you, you may not understand the gravity of the situation,” she said, at times fighting back tears. “It may seem like too much fuss is being made. It happened to me years ago, and your basic trust level of the world is disrupted.”

State Sen. Julie Slama, of Sterling, recalled how she was groped at a political event but buried her feelings because she had experienced worse trauma in college. She noted that she has also received rape and death threats while serving in the Legislature.

“Our policies definitely don’t protect staff and they don’t protect female senators,” said Slama. “As a young female, you worry that it’s going to be the thing that defines you.”

And state Sen. Machaela Cavanaugh, of Omaha, shared a story about her time as a congressional staffer in Washington when she was 22. She said she once got on an elevator with a male senator who was not her boss, and the senator groped her in front of his staffer. Cavanaugh said she was later told, “You don’t get on an elevator with him.”

“I would hope this (Legislature) would be better than that,” Cavanaugh said. “We aren’t there yet.”

State Sen. Megan Hunt accused Groene of victim-blaming, pointing to his comments to reporters that Konecko was “kind of a strait-laced person” and that he hadn’t meant to offend her.

“This incident is another routine, typical and all-too-common situation of a younger woman experiencing boorish, inappropriate, unwanted behavior from a male superior in power,” said Hunt, of Omaha, who has asked Attorney General Doug Peterson and the Nebraska State Patrol to investigate the alleged incident.

State Sen. Carol Blood, of Bellevue, said the Legislature’s current practices for investigating harassment claims reminded her “of what I experienced in the workforce in the 1970s,” when allegations were often brushed aside.

“We’ve never really caught up to this decade,” Blood said. “When we have concerns and sometimes complaints, the response is usually, ‘Well, that’s just how the person is.’”

The Legislature’s current workforce harassment policy begins with the chairman of the Executive Board meeting with the accuser and the accused to try to reach an informal, confidential agreement. If that option fails, the accuser has the right to seek a formal investigation. Informal investigations are kept confidential to try to protect accusers who may wish to keep the matter private.

Sen. Dan Hughes, the Executive Board chairman, said he followed that process and contacted three state lawmakers who will conduct an investigation with help from an outside consultant.

The panel members are state Sens. John Arch, Tom Briese, and Anna Wishart.

Hughes said the investigation will be “thorough, prompt” and is designed to protect the accuser’s rights and ensure public confidence in the process. He said he has asked the panel to prepare a report that will be released publicly, and any evidence of criminal behavior will be given to the attorney general. The panel may also recommended changes to the Legislature’s harassment policy.

“While we all hope that nothing like this happens again, it is our responsibility to find ways to improve our policies,” Hughes said.

Hughes also said he hadn't seen any evidence to suggest that Groene had shared his photos with anyone else. He said legislative technology staffers searched Groene’s laptop and personal cellphone, including his emails and hard drives, and found no evidence that Groene forwarded the images.

Gov. Pete Ricketts said Monday that he plans to appoint Groene’s replacement soon. Groene represents a swath of western Nebraska that includes the city of North Platte.

***DiMassa, wife, alleged associates plead not guilty to fraud, other counts***

**CONNECTICUT** – ***New Haven Register*** – by Brian Zahn -- February 18, 2022

WEST HAVEN — The scandal surrounding former state Rep. Michael DiMassa and [the alleged theft](https://www.nhregister.com/news/article/Feds-State-Rep-Michael-DiMassa-arrested-on-16548355.php) of the city’s federal pandemic relief funds is growing, with two more individuals arrested and more allegations against the former lawmaker and City Hall staffer.

Lauren Knox, DiMassa’s 37-year-old, pregnant wife, and 50-year-old business owner John Trasacco were arrested and appeared in federal court for the first time Friday. Both pleaded not guilty to one count of wire fraud and one count of conspiracy to commit wire fraud in separate alleged schemes, both allegedly connected to DiMassa. Both were released on bond.

Meanwhile, in back-to-back appearances in federal court via Zoom Friday afternoon, DiMassa and former city staffer John Bernardo both pleaded not guilty to charges of wire fraud in connection with the alleged theft of more than $600,000 in federal funding through the use of a shell company and fraudulent invoices submitted to the city. Both were previously arrested and presented in federal court in October 2021, but did not file pleas at that time.

According to court documents, Trasacco founded L & H Company LLC on March 20, 2019, and JIL Sanitation Solutions LLC on June 24, 2021. Between January 2021 and November 2021 it is alleged that Trasacco participated in a scheme to submit “fraudulent invoices” to the city of West Haven and DiMassa then authorized payments “in the form of a check, to either L & H Company or JIL Sanitation Services.” Court documents allege that five checks worth “approximately $431,982” were delivered to Trasacco’s two businesses.

Federal investigators allege in the documents that DiMassa included charges for goods and services that the city did not receive, “including thousands of units” of personal protective equipment, maintenance to heating and air-conditioning units at “multiple municipal locations,” COVID supplies for the Board of Education and cleaning services for various municipal and school buildings — including “a charge for cleaning a school building that had been vacant and abandoned for several years.”

In court Friday, U.S. District Judge Robert M. Spector set Trasacco’s bond at $100,000. It was debated by Assistant U.S. Attorney Ray Miller and Trasacco’s count-appointed attorney as to whether Trasacco’s convictions for crimes such as first-degree robbery and first-degree assault from roughly 20 years ago made him a risk to the public.

“Those convictions are quite old,” Spector said, imposing no curfew and limiting Trasacco’s travel to the state of Connecticut with exceptions for doing business in California.

In court documents, it was alleged Knox and now-husband DiMassa made multiple requests for payment for a youth violence prevention program and for expenses associated with responding to youth violence related to COVID-19.

“These invoices listed charges for in-home counseling, cleaning supplies, special needs hourly service, wi-fi assistance for low/moderate income families, counseling services, license fees, a fall youth clinic, meals, support group supplies, equipment rental, and youth clinic support group,” according to the documents. It is alleged that checks issued to Knox totaled approximately $147,776.10, and that during the period of time outlined in the invoices, “Knox never provided any services to the City of West Haven.”

Knox was released on a $50,000 bond and was ordered to have no contact with her co-defendants — except for DiMassa. Her next court date is scheduled for April 2 for jury selection in Hartford federal court.

Bernardo was represented on the Zoom call by his attorney, Tara Knight. DiMassa was represented by Alec Gulash, brother of his attorney, John R. Gulash.

Knight requested that Bernardo, a former West Haven employee and retired New Haven firefighter, not be required to hold a full-time job, which was one condition of his release, arguing that he was fully retired and collecting a pension.

Assistant State’s Attorney Ray Miller said the government would have no objection as long as the probation office had no objection.

Spector, who said the six-count indictment was returned Thursday by a federal grand jury in Hartford, accepted DiMassa’s plea after advising him of his rights and asking him a number of questions to make sure he was prepared to go forward via video, was not impaired in any way and understood the indictment and the possible ramifications of his plea.

DiMassa, 31, wearing a black suit or sport jacket over a black shirt and sporting a mustache and small beard, agreed to go forward via video. He said his attorney had explained the indictment to him. Gulash waived reading of the indictment, which alleged three different conspiracies, and DiMassa pleaded not guilty to all six counts.

Spector set DiMassa’s next court date for April 2, 2022, at 10 a.m. before Judge Omar A. Williams in U.S. District Court in Hartford.

At Spector’s request, Miller advised DiMassa that should he be found guilty he could face a potential maximum penalty of 20 years in prison plus up to three years of supervised release and up to a $250,000 fine, plus a $100 special assessment per charge.

He also could be required to pay restitution. Miller said there is a $1 million loss in the case.

Miller declined to comment on further details of the case, such as whether more arrests or charges are anticipated.

***Corruption at the Hawaii legislature puts campaign donations in the spotlight***

**HAWAII- *Honolulu Civil Beat*-** by Kevin Dayton - February 16, 2022

Often it is scandal that spurs reform, and the Hawaii Legislature may now be facing one of those moments.

The Legislature has been jolted by the convictions of former Senate Majority Leader J. Kalani English and former House Finance Committee Vice Chairman Ty Cullen, who both pleaded guilty Tuesday to accepting bribes to benefit a wastewater company.

In addition to illicit cash that changed hands in a restaurant men’s room and was stuffed under the floor mat of a car, there were dozens of apparently lawful campaign contributions that businessman Milton Choy showered on English, Cullen and other political figures in Hawaii.

Those donations may be legal, but they suddenly appear so unsavory that lawmakers are eager to be rid of them. And the ugly political optics of all that suggest lawmakers may now be motivated to overhaul Hawaii’s system of campaign funding.

The larger issue being raised by the corruption scandal is the public’s mistrust of politicians and “a broader network that exists of influential people who are insiders in politics,” meaning people who have access to power, said Neal Milner, political science professor emeritus at the University of Hawaii Manoa.

“Influence is about access, access is about power, and power is often about these kind of subtle things that you have at your disposal,” he said during a recent interview on the Honolulu Star-Advertiser’s “Spotlight Hawaii.”

“So when you see engineering firms and construction firms giving money to political campaigns — and that includes this guy with the cesspool company — most of the time the money is given in a general sense because it improves your reputation, it increases the likelihood that you’ll get some kind of access,” Milner said.

“The interesting thing about the cesspool guy is that a lot of his money went in that direction — you’re trying to become a player the way some of the big companies are players here,” he said.

Some see a more direct link between campaign donations and profitable government contracts. Sandy Ma, executive director of Common Cause Hawaii, said Choy’s contributions bought him access to insider knowledge about what projects state government would fund, and also helped get him access to agency heads who would oversee those contracts.

“It positioned him properly to meet the right people, shake the right hands, so that when a procurement contract is announced, his name is already percolating, his company is already percolating around in people’s minds,” she said.

That pattern is often described as “pay-to-play,” which Ma said has been banned in other jurisdictions including Connecticut, Illinois and Washington D.C. by restricting or prohibiting contractors from making political donations. The Connecticut and Illinois laws were both triggered by scandals in those states.

Hawaii has a law to curb pay to play, but it has proved to be easy to circumvent. The law prohibits “any person” with a state or county contract from making donations during the life of that contract, but firms sidestep that restriction by having, for example, family members or company executives make personal donations.

Kristin Izumi-Nitao, executive director of the state Campaign Spending Commission, said the Hawaii ban on contractor donations has also proved to be difficult to enforce because there is no centralized database for all of the contracts and contractors who are hired by various state and county agencies.

Contractor Grace Pacific was fined $1,000 in 2019 under the Hawaii law for a donation to state Sen. Glenn Wakai, but few other cases resulted in fines under the existing law.

Ma said Common Cause is going to look at tightening the weak existing law, and also wants lawmakers to consider whether subcontractors should also be banned from making political contributions. But that also presents enforcement challenges because there is no centralized list of state and county subcontractors.

The city of Honolulu and Maui County both contracted with Choy’s company, H2O Process Systems, to clean city and county buses, and the company web site says it also worked on a wastewater treatment plant on Maui, apparently as a subcontractor.

Choy, his family members and employees from his various companies have donated more than $356,000 to political campaigns since 2014, according to campaign finance data, including more than $160,000 donated by Choy himself.

When asked if state campaign spending officials are investigating any of those donations by Choy, his family or people affiliated with his companies, Izumi-Nitao said she cannot comment.

Another idea backed by Common Cause is a ban on campaign fundraising events for state lawmakers during the legislative session from January until early May. Critics have argued for years those spring fundraisers, which are routinely held, are unseemly at best.

Part of the problem is mid-session fundraisers can create scenarios where lawmakers hold official hearings on bills that are important to lobbyists or political activists in the daytime, and then host fundraisers that very evening to solicit campaign contributions from the same people.

Banning those mid-session fundraisers has been discussed for years, but the idea was never incorporated into state law.

“I think that’s a strategy if you’re concerned people are gaining undue influence or unfair advantage during session,” said Izumi-Nitao. “Of course, the situation is much more ripe for it now than if we discussed this in early January 2022” before Cullen and English were charged.

The idea “sounds like an area that could be impactful,” she said.

However, some neighbor island lawmakers have pointed out spring is when they are working in Honolulu for session, which from their perspective makes it a good time to hold a Honolulu fundraiser.

The Legislature has bills pending that would make it easier for the campaign spending commission to refer violations of campaign spending restrictions to county prosecutors or the state Attorney General, and would bar politicians from holding elective public office after a campaign-finance violation conviction for 10 years.

Those include House Bill 2474, which was approved by the House Government Reform Committee last week, and Senate Bill 2345.

Ma is also interested in an array of other campaign and lobbying reforms, including expanding public funding of campaigns.

Other Common Cause ideas include prohibiting lobbyists from fundraising for candidates, and requiring that each elected official make an entry in a publicly available log each time they meet with a lobbyist.

House Speaker Scott Saiki has said the House will offer up reform proposals that could include changes in the campaign spending laws, but the details of those proposals are not yet publicly available.

***Shareholders, on behalf of FirstEnergy Corp., settle for $180 million over House Bill 6 allegations***

**OHIO- *Cleveland Plain Dealer*-** by John Caniglia - February 11, 2022

Shareholders, acting on behalf of FirstEnergy Corp., have agreed to a $180 million settlement with a group of top officials who ran the company during the House Bill 6 scandal, according to filings Thursday.

The investors accused the utility’s leaders, including current and former board members and executives, in derivative lawsuits in federal courts in Akron and Columbus. The claims sought to make the corporation whole from what authorities called the largest bribery scheme in Ohio history.

Shareholders sued on behalf of the company, accusing the directors and officers of failing to oversee the utility’s political activities prior to the passage of House Bill 6. Derivative lawsuits are different from other types of lawsuits, such as those in class-action cases where the people filing the cases are seeking benefits for themselves.

The agreement made public Thursday calls for six members of the board to step down and not seek re-election. It is anticipated that Michael Anderson, a member of the board since 2007, will step down during this year’s shareholders’ meeting.

The settlement also calls for the company to adopt reforms involving its political spending and lobbying, as the board will oversee those areas. In a key development, the company will provide greater disclosures of its political activities to shareholders.

The agreement was made public the same day FirstEnergy released a year-end report that showed $1.3 billion in earnings for 2021, up from $1.1 billion in 2021.

The filing marks the resolution of another issue involving FirstEnergy’s bankrolling of a scheme that shook the Statehouse. Last summer, the company paid a $230 million fine in an agreement with federal prosecutors.

Authorities said the company paid more than $60 million in bribes to then-Ohio House Speaker Larry Householder and a group who worked to pass a $1 billion legislative bailout in 2019 of two aging nuclear plants, then owned by a FirstEnergy subsidiary.

Householder and four others have been charged with racketeering. His political strategist, Jeffrey Longstreth, and lobbyist Juan Cespedes have pleaded guilty.

Lobbyist Matthew Borges and Householder are likely to go to trial, either later this year or early next year. A date has not been set.

The agreement with prosecutors did not prevent current or former top FirstEnergy employees from being prosecuted. At this point, no one from the company has been charged.

The shareholders’ lawsuits claimed the company had been harmed, and they accused those who led the company for a lack of oversight. The defendants in the case include Anderson and other board members, as well as former top leaders, such as former chief executive officer Charles Jones and Michael Dowling, the former leader of the firm’s lobbying efforts.

The insurer for those leaders will pay the company.

The company’s agreement with federal prosecutors does not prevent individual executives from being charged. No company official has been accused of wrongdoing.

In a statement, the company said: “The measures outlined in the settlement complement the substantial enhancements and actions that FirstEnergy and its Board of Directors have implemented to strengthen FirstEnergy’s governance and compliance program.”

Besides Anderson, other board members expected to leave the company are Donald Misheff, Thomas Mitchell, Christopher Pappas, Luis Reyes and Julia Johnson. Misheff has been the board’s chairman since 2018.

The settlement also calls for the company to implement enhanced disclosure to shareholders of political and lobbying activities. The lawsuits alleged that shareholders have pushed for years for greater transparency, but they were denied.

“The company’s board has demonstrated longstanding opposition to transparency regarding payments to public officials at the state level, as its recommendation to vote against shareholder proposals requiring such disclosure in 2015, 2016 and 2017 demonstrate,” the shareholders’ lawsuit filed in federal court in Akron says.

Earlier this month, federal energy regulators gave FirstEnergy two months to develop a plan to issue customer refunds after a new audit found the utility improperly accounted for tens of millions of dollars used to lobby for House Bill 6.

The U.S. Securities and Exchange Commission, as well as the Internal Revenue Service, is also investigating the utility.