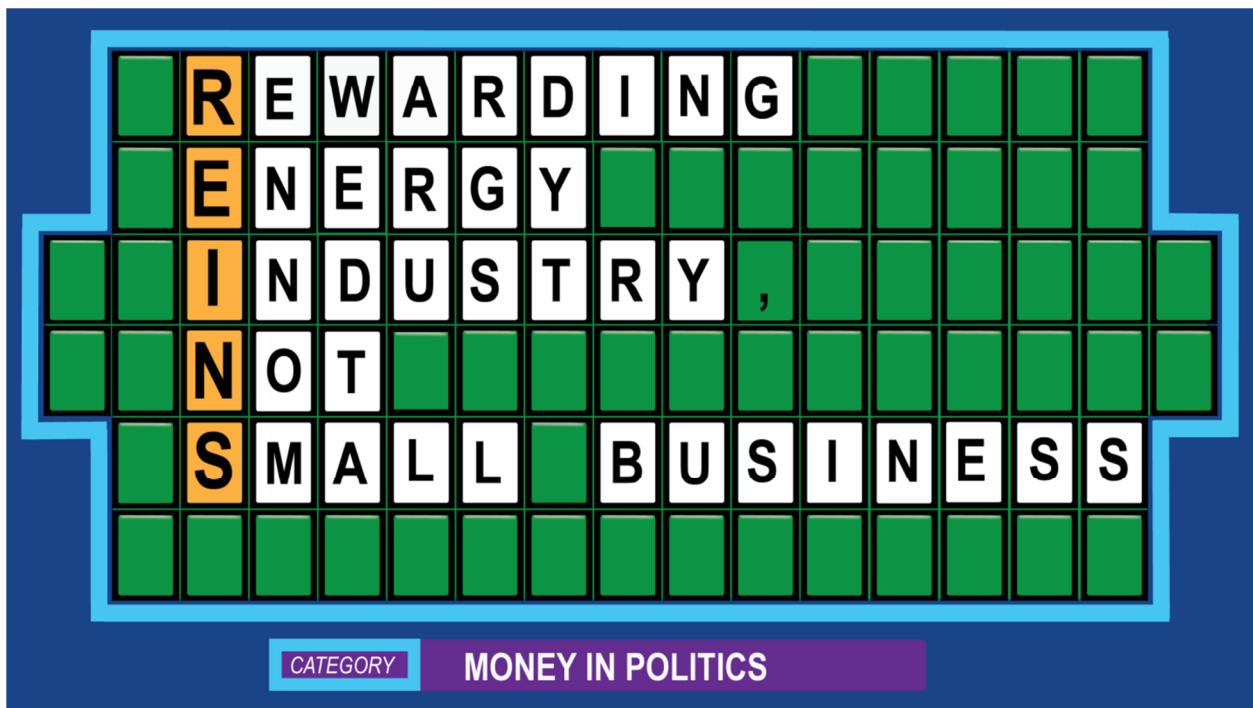


DECODING THE BILL

Lobbying Records Show That Electric Utility Industry Dominates Push for Deregulatory 'REINS' Legislation



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*** Revised Version¹ ***

Republicans in Congress have put forth the REINS Act² as their signature proposal to reduce federal regulation. They argue that the bill would help businesses—and particularly small businesses—create jobs. But to the extent that federal lobbying activity provides insight into which industries truly stand to benefit from a bill, REINS appears custom-made for companies in the energy industry, and electric utilities in particular.

The 48 organizations that reported lobbying in support of REINS in the first half of 2011 include 26 energy industry companies or trade associations, including 20 from the electric utility industry, three from the coal industry, and three from the oil & gas industry.³ [See Figure 1]

Figure 1: Industry Breakdown of Organizations Lobbying in Favor Of REINS

Industry	Number of Organizations Lobbying in Favor of REINS In First Half of 2011
Electric Utilities	20
Misc Manufacturing & Distributing	4
Mining	3
Oil & Gas	3
Republican/Conservative	2
General Contractors	2
Chemical & Related Manufacturing	2
Building Materials & Equipment	2
Misc Services	2
Non-Profit Institutions	1
TV/Movies/Music	1
Telephone Utilities	1
Agricultural Services/Products	1
Tobacco	1
Business Associations	1
Automotive	1
Insurance	1

Source: Public Citizen analysis of lobbying disclosure data filed with the secretary of the Senate. Industry categorizations from the Center for Responsive Politics (www.opensecrets.org).

Meanwhile, the best known small business advocacy organization, the National Federation of Independent Businesses (NFIB), did not list REINS among the issues on which it spent \$1.4 million lobbying in the first half of 2011.

¹ This report replaced an original version, published on Aug. 9, 2011, that inadvertently omitted several organizations that lobbied on REINS in the first half of 2011.

² The bill's title stands for "Regulations from the Executive In Need of Scrutiny."

³ Note: organizations included in calculations include only those that specifically reported lobbying on REINS. Other organizations may have lobbied REINS and other bills pertaining to the regulatory process but reported their work more generally (*e.g.*, "legislation concerning regulatory issues"). They are not included in this study.

REINS Billed As Small-Business Measure

Congress often delegates authority to federal agencies to establish regulations to implement laws. This framework allows Congress to address broad policy issues while leaving many of the technical details to agency experts.

The REINS Act, introduced by Sen. Rand Paul (R-Ky.) and Rep. Geoff Davis (R-Ky.), would fundamentally change the process by preventing regulations from taking effect unless Congress votes affirmatively to approve them. This would allow Congress to block regulations (and by proxy the laws they implement) simply by failing to act. Specifically, REINS requires Congress and the president to approve all regulations having an impact of more than \$100 million within 70 legislative days to avoid having the entire proposal tabled until the next Congress.

Many supporters of REINS have cast it as a boon to businesses in general, and particularly small businesses.⁴ The following statements were taken from a press release announcing the bill's introduction:

- “This bill will protect families and the **small-business owners** who create 70 percent [of] our nation’s jobs from this Administration’s onerous and counterproductive regulations.” —Sen. Orrin Hatch (R-Utah).⁵
- “In the past few years, faceless bureaucrats in executive branch agencies have increasingly burdened taxpayers and **small businesses** with costly regulations. —Sen. David Vitter (R-La.).⁶
- “The Obama Administration continues to circumvent Congress by crafting major federal regulations behind closed doors that are crushing America’s **small businesses** and job creators.” —Sen. John Thune (R-S.D.).⁷

⁴ Although not the subject of this report, allegations that regulators routinely and cavalierly exceed the authority they are granted from Congress are inaccurate. A panoply of laws and executive orders require agencies to go to great lengths to ensure that proposed regulations are crafted in a way that minimizes their effects on businesses, and particularly small businesses. (A chart of the steps to create a new regulation is available [here](#).) If affected industries believe agencies have failed to follow the process correctly or exceeded the scope of the authorizing statute, they may sue to block implementation. As an example of the demands imposed on agencies by the regulatory process, it took the Occupational Safety and Health Administration (OSHA) 12 years to update its rules for operating cranes and derricks, even though industry requested a revision to the rules and the entire 12-year rulemaking process proceeded without significant controversy. A narrative on that rulemaking is available [here](#).

⁵“Senator Rand Paul Introduces REINS Act,” Press Release, February 7, 2011. Available at <http://www.randpaul2010.com/2011/02/senator-rand-paul-introduces-reins-act/>.

⁶*Ibid.*

⁷*Ibid.*

- “As I travel Ohio talking to workers and **small business** leaders, time and again I hear about how new regulations handed down by the Obama Administration are making it harder for companies to grow, and to create the jobs we need to get our country back on track ... This legislation will restore order to our system of government and challenge the status quo that has encouraged the growth of government by regulatory fiat.” —Sen. Rob Portman (R-Ohio).⁸
- “By creating a new regulatory dynamic and paradigm, the REINS Act will help reduce regulatory burdens and free **small and other business** to grow, innovate and create jobs.” —U.S. Chamber of Commerce.⁹
- “Over-regulation from the federal government is hurting the nation’s job creation capabilities ... Greater transparency is vital to help the American people keep their government accountable for what is being imposed upon them. I am pleased to join my Senate colleagues in introducing the REINS Act that does just that.” —Sen. James Inhofe (R-Okla.).¹⁰
- The accountability provided by the REINS Act is necessary to ensure federal agencies cannot unilaterally destroy jobs and harm our economy with unnecessary regulations ... Businesses should be focused on how best to invest and grow to create jobs, not on fending off burdensome micromanagement through regulation from Washington.” —Sen. Jim DeMint (R-S.C.).¹¹
- “We all know that burdensome federal regulations can pose enormous challenges for businesses, as well as state and local governments. By giving Congress oversight authority over major new executive branch rules, we can take an important step toward stopping the proliferation of heavy-handed Washington mandates.” —Sen. Kelly Ayotte (R-R.I.).¹²

⁸*Ibid.*

⁹*Ibid.*

¹⁰*Ibid.*

¹¹*Ibid.*

¹²*Ibid.*

- “The current administration’s onerous mandates and regulations hamper private sector job creation and further the climate of uncertainty that has stalled our nation’s economy ... Americans deserve a transparent and accountable regulatory process so job creators can expand their businesses and hire more workers nationwide.” —Sen. Roy Blunt (R-Mo.).¹³

Pro-REINS Lobbying Organizations Overwhelmingly Hail from Energy Industry

A review of federal lobbying records indicates that the energy industry has been the greatest lobbying force in favor of REINS. Analysis of federal lobbying registrations for the first half of 2011 indicates that 26 of the 48 organizations that lobbied in favor of REINS were energy industry companies or energy industry trade associations. These included 20 electric utility organizations and three from the coal industry, which provides the fuel for about half of the electricity generated in the United States. [See Figure 2]

The electric utility industry has objected to many Environmental Protection Agency (EPA) regulations—such as the Mercury and Air Toxics Standards Rule (MATS) and the Cross-State Air Pollution Rule (CSAPR)—that have been recently finalized or are nearing completion. These rules will require electric utilities to significantly reduce emissions which, electric utility officials say, “will require installation of a large amount of scrubbers and other capital intensive air emission controls.”¹⁴ Firms such as Southern Company and DTE Energy Company have claimed that these requirements will require them to retire 20 to 30 percent of their coal-fired generating capacity by 2015.¹⁵

Despite the handwringing over cutting plants, industry officials actually acknowledge the merits of the regulations, at least when talking to investors. Referring to the potential closure of 25 percent of coal-fueled generating capacity, American Electric Power Chairman Mike Morris said, “On balance, we think that is the appropriate way to go ... not only to treat our customers, but also to treat our shareholders, near and long term, with that small amount of the fleet going off-line.”¹⁶

¹³*Ibid.*

¹⁴ Testimony of Janet Henry, Deputy General Counsel, American Electric Power, Hearing Before House Subcommittee on Regulatory Affairs, Stimulus Oversight and Government Spending, July 26, 2011, page 6.

¹⁵*Ibid.* at 10.

¹⁶Amy Harder, “Power Company Contradicts Itself on EPA Rules,” *National Journal Daily*, June 15, 2011.

Figure 2: 2011 Lobbying of Organizations Favoring REINS

Organization	Total Lobbying \$*	Industry
US Chamber of Commerce	\$19,930,000	Business Associations
General Electric	\$15,360,000	Misc Manufacturing & Distributing
National Cable & Telecommunications Assn	\$8,940,000	TV/Movies/Music
Edison Electric Institute	\$6,930,000	Electric Utilities
Southern Co	\$6,120,000	Electric Utilities
Koch Industries Public Sector	\$4,020,000	Oil & Gas
Exxon Mobil	\$3,810,000	Oil & Gas
National Assn of Manufacturers	\$3,780,000	Misc Manufacturing & Distributing
Duke Energy	\$3,200,000	Electric Utilities
Constellation Energy	\$1,670,000	Electric Utilities
US Telecom Assn	\$1,400,000	Telephone Utilities
FirstEnergy Corp	\$1,265,000	Electric Utilities
National Mining Assn	\$1,052,834	Mining
Progress Energy	\$1,040,000	Electric Utilities
AFLAC Inc	\$940,000	Insurance
Lorillard Tobacco	\$900,000	Tobacco
Xcel Energy	\$900,000	Electric Utilities
PPL Corp	\$890,000	Electric Utilities
Marathon Oil	\$880,000	Oil & Gas
Associated Builders & Contractors	\$730,000	General Contractors
DTE Energy	\$710,000	Electric Utilities
MidAmerican Energy	\$666,858	Electric Utilities
CMS Energy	\$630,000	Electric Utilities
Lyondell Chemical	\$520,000	Chemical & Related Manufacturing
NextEra Energy	\$470,000	Electric Utilities
PEPCO Holdings	\$330,000	Electric Utilities
Arch Coal	\$300,000	Mining
National Ready Mixed Concrete Assn	\$280,000	Building Materials & Equipment
Sempra Energy	\$280,000	Electric Utilities
Americans for Tax Reform	\$170,000	Republican/Conservative
Ohio Municipal Electric Assn	\$150,000	Electric Utilities
Construction Industry Round Table	\$115,175	General Contractors
California Farm Bureau Federation	\$110,000	Agricultural Services/Products
Motor & Equipment Manufacturers Assn	\$93,321	Automotive
Assn for Manufacturing Technology	\$80,000	Misc Manufacturing & Distributing
Society of Chemical Manufacturers & Affl	\$79,000	Chemical & Related Manufacturing
Brick Industry Assn	\$70,000	Building Materials & Equipment
Cliffs Natural Resources	\$70,000	Mining
Natl Assn Electrical Distributors	\$56,005	Electric Utilities
Forging Industry Assn	\$40,000	Misc Manufacturing & Distributing
Heritage Action for America	\$40,000	Republican/Conservative
National Taxpayers Union	\$36,342	Misc. Services
Council for Citizens Against Govt Waste	\$30,000	Non-Profit Institutions
MDU Resources Group	\$30,000	Electric Utilities
Textile Rental Services Assn of America	\$30,000	Misc Services
American Municipal Power Inc	\$26,459	Electric Utilities
NV Energy	\$20,000	Electric Utilities
Vectren Corp	\$15,000	Electric Utilities
Total	\$89,205,994	

Source: Public Citizen analysis of lobbying disclosure data filed with the secretary of the Senate. Industry categorizations from the Center for Responsive Politics (www.opensecrets.org). *The figures cited here represent the total lobbying expenditures of organizations that lobbied on REINS, not the amount the organizations spent lobbying on REINS specifically.

REINS Advocates Far Outnumber Opponents

Federal lobbying disclosures reveal that lobbying on REINS Act is clearly lopsided:

- Of the 63 organizations that lobbied on REINS in the first half of 2011, 48 lobbied in support of the bill compared to 15 organizations that lobbied against it. The 15 opponents represent a broad array of interests including public interest organizations, environmental groups, unions, and healthcare workers.
- The number of lobbyists working in support of REINS and other closely related regulatory issues outnumbered opponents 187 to 37.
- In the first half of 2011, organizations lobbying on REINS spent \$89.2 million on lobbying (on all issues, not just REINS) compared to \$5.9 million spent by opponents of the bill. Although these figures do not indicate the amount that advocates and opponents spent lobbying on REINS specifically, they provide an indication of the overwhelming advantage (slightly more than 15 to 1 in dollars spent) that pro-REINS forces enjoy in overall lobbying heft.

Figure 3: Comparing the Lobbying Efforts of REINS Supporters v. REINS Opponents

Supporter/Opponent	Number of Orgs	Amount Spent*	Number of Lobbyists
Supporters	48	\$89,205,994	187
Opponents ¹⁷	15	\$5,855,611	37

Source: Public Citizen analysis of lobbying disclosure data filed with the secretary of the Senate. Industry categorizations from the Center for Responsive Politics (www.opensecrets.org).

*The Lobbying Disclosure Act does not require reporting on amounts spent by issue area. The figure cited here represents the organizations' total lobbying expenditures.

As the signature GOP proposal intended to reduce federal regulation, the REINS Act has been enthusiastically touted by its supporters as a key reform for job creation and for helping small businesses. However, upon examination, it is clear that the dominant interest pushing for this bill is one of the largest corporate interests – the energy industry. The one-sided pressure in support of this legislation, shows the real interests at play around so-called regulatory reform. Public Citizen urges Congress to oppose the REINS Act.

¹⁷ The 15 opponents of REINS that reported lobbying on the issue in 2011 were the AFL-CIO, American Association for Justice, American Cancer Society, California Division Inc, American College of Nurse Practitioners, American Federation of State, County, and Municipal Employees, American Lung Association, Defenders of Wildlife, Environment America, Inc, Families USA Foundation, Inc., Health Care for America Now, League Of Conservation Voters, National Association of Pediatric Nurse Practitioners, Natural Resources Defense Council, Public Citizen, and the UAW.