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HOUSE BILL 551

54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019

INTRODUCED BY

Joy Garratt and Elizabeth "Liz" Thomson

AN ACT

RELATING TO LOBBYISTS; REQUIRING THAT LOBBYISTS PARTICIPATE IN TRAINING TO PREVENT SEXUAL HARASSMENT; ALLOWING THE SECRETARY OF STATE TO ACCEPT, INVESTIGATE AND RESPOND TO COMPLAINTS OF SEXUAL HARASSMENT BY LOBBYISTS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. A new section of the Lobbyist Regulation Act is enacted to read:

"[NEW MATERIAL] TRAINING TO PREVENT SEXUAL HARASSMENT.--A lobbyist shall not engage in lobbying without having participated, within the past two years, in a sexual harassment prevention training program lasting at least four hours and:

- A. sponsored by the secretary of state;
- B. sponsored by an employer of the lobbyist and conducted by a person qualified to conduct that training; or

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1 C. conducted by a certified human resources
2 professional."

3 SECTION 2. A new section of the Lobbyist Regulation Act
4 is enacted to read:

5 "[NEW MATERIAL] REPORTING OF SEXUAL HARASSMENT--
6 INVESTIGATION BY SECRETARY OF STATE.--A person who alleges that
7 a lobbyist has engaged in behavior toward the person that
8 constitutes sexual harassment may report the allegation to the
9 secretary of state. The secretary of state may make a record
10 of the allegation, cause an impartial investigation of the
11 allegation to be conducted and may, as authorized by law, take
12 action in response to the findings of the investigation. The
13 individuals involved in making that record and in conducting
14 that investigation shall protect from public disclosure the
15 identity of the person who made the allegation."

16 SECTION 3. Section 2-11-2 NMSA 1978 (being Laws 1977,
17 Chapter 261, Section 2, as amended) is amended to read:

18 "2-11-2. DEFINITIONS.--As used in the Lobbyist Regulation
19 Act:

20 A. "compensation" means any money, per diem,
21 salary, fee or portion thereof or the equivalent in services
22 rendered or in-kind contributions received or to be received in
23 return for lobbying services performed or to be performed;

24 B. "expenditure" means a payment, transfer or
25 distribution or obligation or promise to pay, transfer or

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1 distribute any money or other thing of value, but does not
2 include a lobbyist's own personal living expenses and the
3 expenses incidental to establishing and maintaining an office
4 in connection with lobbying activities or compensation paid to
5 a lobbyist by a lobbyist's employer;

6 C. "legislative committee" means a committee
7 created by the legislature, including interim and standing
8 committees of the legislature;

9 D. "lobbying" means attempting to influence:

10 (1) a decision related to any matter to be
11 considered or being considered by the legislative branch of
12 state government or any legislative committee or any
13 legislative matter requiring action by the governor or awaiting
14 action by the governor; or

15 (2) an official action;

16 E. "lobbyist" means any individual who is
17 compensated for the specific purpose of lobbying; is designated
18 by an interest group or organization to represent it on a
19 substantial or regular basis for the purpose of lobbying; or in
20 the course of [~~his~~] employment, is engaged in lobbying on a
21 substantial or regular basis. "Lobbyist" does not include:

22 (1) an individual who appears on [~~his~~] the
23 individual's own behalf in connection with legislation or an
24 official action;

25 (2) [~~any~~] an elected or appointed officer of

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1 the state or its political subdivisions or an Indian nation,
2 tribe or pueblo acting in [~~his~~] the officer's official
3 capacity;

4 (3) an employee of the state or its political
5 subdivisions, specifically designated by an elected or
6 appointed officer of the state or its political subdivision,
7 who appears before a legislative committee or in a rulemaking
8 proceeding only to explain the effect of legislation or a rule
9 on [~~his~~] the designated employee's agency or political
10 subdivision, provided the elected or appointed officer of the
11 state or its political subdivision keeps for public inspection
12 and files with the secretary of state such designation;

13 (4) [~~any~~] a designated member of the staff of
14 an elected state official, provided the elected state official
15 keeps for public inspection and files with the secretary of
16 state such designation;

17 (5) a member of the legislature, the staff of
18 [~~any~~] a member of the legislature or the staff of [~~any~~] a
19 legislative committee when addressing legislation;

20 (6) [~~any~~] a witness called by a legislative
21 committee or administrative agency to appear before that
22 legislative committee or agency in connection with legislation
23 or an official action;

24 (7) an individual who provides only oral or
25 written public testimony in connection with a legislative

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1 committee or in a rulemaking proceeding and whose name and the
2 interest on behalf of which [~~he~~] the individual testifies have
3 been clearly and publicly identified; or

4 (8) a publisher, owner or employee of [~~the~~
5 ~~print media~~] a print or digital media outlet or a radio or
6 television broadcaster, while gathering or disseminating news
7 or editorial comment to the general public in the ordinary
8 course of business;

9 F. "lobbyist's employer" means the person whose
10 interests are being represented and by whom a lobbyist is
11 directly or indirectly retained, compensated or employed;

12 G. "official action" means the action or nonaction
13 of a state official or state agency, board or commission acting
14 in a rulemaking proceeding;

15 H. "person" means an individual, partnership,
16 association, committee, federal, state or local governmental
17 entity or agency, however constituted, public or private
18 corporation or any other organization or group of persons who
19 are voluntarily acting in concert;

20 I. "political contribution" means a gift,
21 subscription, loan, advance or deposit of [~~any~~] money or other
22 thing of value, including the estimated value of an in-kind
23 contribution, that is made or received for the purpose of
24 influencing a primary, general or statewide election, including
25 a constitutional or other question submitted to the voters, or

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1 for the purpose of paying a debt incurred in any such election;

2 J. "prescribed form" means a form prepared and
3 prescribed by the secretary of state;

4 K. "rulemaking proceeding" means a formal process
5 conducted by a state agency, board or commission for the
6 purpose of adopting a rule, regulation, standard, policy or
7 other requirement of general applicability and does not include
8 adjudicatory proceedings; ~~and~~

9 L. "sexual harassment" means conduct consisting of
10 unwelcome sexual advances or requests for sexual favors or
11 other verbal, nonverbal or physical conduct of a sexual nature
12 when:

13 (1) submission to or rejection of that conduct
14 by a person is used as the basis for decisions or actions
15 related to the support or opposition of legislation or to the
16 engagement in legislative processes; or

17 (2) that conduct has the purpose or effect of
18 interfering with a person's work or engagement in legislative
19 processes or of creating an intimidating, hostile or offensive
20 environment in which to work or engage in legislative
21 processes; and

22 ~~[L.]~~ M. "state public officer" means a person
23 holding a statewide office provided for in the constitution of
24 New Mexico."

25 SECTION 4. Section 2-11-3 NMSA 1978 (being Laws 1977,

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1 Chapter 261, Section 3, as amended) is amended to read:

2 "2-11-3. REGISTRATION STATEMENT TO BE FILED--CONTENTS--
3 MODIFICATION TO STATEMENT.--

4 A. In the month of January prior to each regular
5 session or before any service covered by the Lobbyist
6 Regulation Act commences, any individual who is initially
7 employed or retained as a lobbyist shall register with the
8 secretary of state by paying an annual filing fee of fifty
9 dollars (\$50.00) for each of the lobbyist's employers and by
10 filing a single registration statement under oath in an
11 electronic format as prescribed by the secretary of state that
12 [~~states~~]:

13 (1) states the lobbyist's full name, permanent
14 business address and business address while lobbying; [~~and~~]

15 (2) states the name and address of each of the
16 lobbyist's employers; and

17 (3) affirms that the lobbyist has undergone
18 training to prevent sexual harassment as required by Section 1
19 of this 2019 act.

20 B. No registration fee shall be required of
21 individuals receiving only reimbursement of personal expenses
22 and no other compensation or salary for lobbying. Except as
23 required by Subsection D of Section 2-11-6 NMSA 1978, no
24 expenditure report shall be required if the lobbyist
25 anticipates making or incurring and makes or incurs no

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1 expenditures or political contributions under Section 2-11-6
2 NMSA 1978. The lobbyist shall indicate in the lobbyist's
3 registration statement whether those circumstances apply to the
4 lobbyist.

5 C. Upon receipt of the online registration and
6 payment, the secretary of state shall publish the registration
7 information on the secretary of state's lobbying disclosure
8 website.

9 D. For each employer listed in Paragraph (2) of
10 Subsection A of this section, the lobbyist shall file the
11 following information:

12 (1) a full disclosure of the sources of funds
13 used for lobbying;

14 (2) an affirmation from each of the lobbyist's
15 employers authorizing the lobbyist to lobby on the employer's
16 behalf;

17 (3) a brief description of the matters in
18 reference to which the service is to be rendered; and

19 (4) the name and address of the person, if
20 other than the lobbyist or the lobbyist's employer, who will
21 have custody of the accounts, bills, receipts, books, papers
22 and documents required to be kept under the provisions of the
23 Lobbyist Regulation Act.

24 E. For each succeeding year that an individual is
25 employed or retained as a lobbyist by the same employer, and

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1 for whom all the information disclosed in the initial
2 registration statement remains substantially the same, the
3 lobbyist shall file a simple annual registration renewal in
4 January and pay the fifty-dollar (\$50.00) filing fee for each
5 of the lobbyist's employers together with a short, abbreviated
6 prescribed form for renewal.

7 F. Whenever there is a modification of the facts
8 required to be set forth by this section or there is a
9 termination of the lobbyist's employment as a lobbyist before
10 the end of the calendar year, the lobbyist shall notify the
11 secretary of state using the electronic registration system
12 within one week of such occurrence and shall furnish full
13 information concerning the modification or termination. If the
14 lobbyist's employment terminates at the end of a calendar year,
15 no separate termination need be reported."