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SENATE BILL 445

48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007

INTRODUCED BY

Mark Boitano

AN ACT

RELATING TO GOVERNMENTAL CONDUCT; EXTENDING THE GOVERNMENTAL
CONDUCT ACT TO INCLUDE PUBLIC OFFICERS AND EMPLOYEES OF
POLITICAL SUBDIVISIONS OF THE STATE; PROHIBITING ABUSIVE
CONDUCT BY PUBLIC OFFICIALS AND EMPLOYEES.

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

Section 1. A new section of the Governmental Conduct Act
is enacted to read:

"[NEW MATERIAL] ABUSE OF POSITION.--A public officer or
employee shall not directly or indirectly threaten a law
enforcement officer with retaliation or intimidate the law
enforcement officer to avoid arrest or ticketing by any law
enforcement officer."

Section 2. Section 10-16-2 NMSA 1978 (being Laws 1967,
Chapter 306, Section 2, as amended) is amended to read:

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underscoring material = new
[bracketed material] = delete

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1 "10-16-2. DEFINITIONS.--As used in the Governmental
2 Conduct Act:

3 A. "business" means a corporation, partnership,
4 sole proprietorship, firm, organization or individual carrying
5 on a business;

6 B. "confidential information" means information
7 that by law or practice is not available to the public;

8 C. "employment" means rendering of services for
9 compensation in the form of salary as an employee;

10 D. "financial interest" means an interest held by
11 an individual [~~his~~] or the individual's spouse or dependent
12 minor children that is:

13 (1) an ownership interest in business; or

14 (2) any employment or prospective employment
15 for which negotiations have already begun;

16 E. "official act" means an official decision,
17 recommendation, approval, disapproval or other action that
18 involves the use of discretionary authority;

19 F. "person" means an individual or entity;

20 G. "public officer or employee" means [~~any~~] a
21 person who has been elected to, appointed to or hired for [~~any~~]
22 a state office or an office of a political subdivision of the
23 state and who receives compensation in the form of salary or is
24 eligible for per diem or mileage, but excludes legislators and
25 judges;

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1 H. "standards" means the conduct required by the
2 Governmental Conduct Act; and

3 I. "substantial interest" means an ownership
4 interest that is greater than twenty percent."

5 Section 3. Section 10-16-6 NMSA 1978 (being Laws 1967,
6 Chapter 306, Section 6, as amended) is amended to read:

7 "10-16-6. CONFIDENTIAL INFORMATION.--No legislator,
8 public officer or employee shall use confidential information
9 acquired by virtue of [~~his state employment or office~~] the
10 legislator's, officer's or employee's position or employment
11 with the state or its political subdivisions for [~~his~~] that
12 person's or another's private gain."

13 Section 4. Section 10-16-7 NMSA 1978 (being Laws 1967,
14 Chapter 306, Section 7, as amended) is amended to read:

15 "10-16-7. CONTRACTS INVOLVING PUBLIC OFFICERS OR
16 EMPLOYEES.--A state or local government agency shall not enter
17 into any contract with a public officer or employee [~~of the~~
18 ~~state~~] or with a business in which the public officer or
19 employee has a substantial interest unless the public officer
20 or employee has disclosed [~~his~~] the public officer's or
21 employee's substantial interest and unless the contract is
22 awarded pursuant to the Procurement Code or a purchasing
23 ordinance in the case of a home rule municipality; provided
24 that this section does not apply to a contract of official
25 employment with the state or to contracts made pursuant to the

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1 provisions of the University Research Park Act."

2 Section 5. Section 10-16-8 NMSA 1978 (being Laws 1967,
3 Chapter 306, Section 8, as amended) is amended to read:

4 "10-16-8. CONTRACTS INVOLVING FORMER PUBLIC OFFICERS OR
5 EMPLOYEES--REPRESENTATION OF CLIENTS AFTER GOVERNMENT
6 SERVICE.--

7 A. A state or local government agency shall not
8 enter into a contract with, or take any action favorably
9 affecting, any person or business that is:

10 (1) represented personally in the matter by a
11 person who has been a public officer or employee [~~of the state~~]
12 within the preceding year if the value of the contract or
13 action is in excess of one thousand dollars (\$1,000) and the
14 contract is a direct result of an official act by the public
15 officer or employee; or

16 (2) assisted in the transaction by a former
17 public officer or employee [~~of the state~~] whose official act,
18 while in state employment, directly resulted in the agency's
19 making that contract or taking that action.

20 B. A former public officer or employee shall not
21 represent a person in [~~his~~] the former public officer's or
22 employee's dealings with the government on a matter in which
23 the former public officer or employee participated personally
24 and substantially while a public officer or employee.

25 C. For a period of one year after leaving

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1 government service or employment, a former public officer or
2 employee shall not represent for pay a person before the
3 government agency at which the former public officer or
4 employee served or worked."

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