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FISCAL IMPACT REPORT

SPONSOR O'Neill ORIGINAL DATE 02/05/12
LAST UPDATED _____ HB 144
SHORT TITLE Lobbying by Former State Officials SB _____
ANALYST Wilson

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY12	FY13		
	NFI		

(Parenthesis () Indicate Expenditure Decreases)
Relates to SB 103

SOURCES OF INFORMATION

LFC Files

Responses Received From

Administrative Office of the Courts (AOC)
Attorney General's Office (AGO)
Secretary of State (SOS)
Public Regulation Commission (PRC)

SUMMARY

Synopsis of Bill

House Bill 144 amends the Lobbyist Regulation Act by placing a one year moratorium on lobbying by former statewide elected officials, former PRC commissioners, former legislators, and former cabinet secretaries.

The bill also prohibits a lobbyist's employer from compensating such a former public official for one year.

HB 144 makes the violation of the restriction on lobbying by certain former public officials a misdemeanor.

FISCAL IMPLICATIONS

There will be a minimal administrative cost for statewide update, distribution and documentation of statutory changes. Any additional fiscal impact on the judiciary would be

proportional to the enforcement of this law and commenced prosecutions. New laws, amendments to existing laws and new hearings have the potential to increase caseloads in the courts, thus requiring additional resources to handle the increase.

SIGNIFICANT ISSUES

The AGO provided the following:

Moratoriums on lobbying by former public officials are common across the country throughout federal, state and local governments. For example, twenty-six states place moratoriums on lobbying by former state legislators.

The Lobbyist Regulation Act defines lobbying as trying to influence a decision related to any matter to be considered or being considered by the legislative branch of state government or any legislative committee or any legislative matter requiring action by the governor or awaiting action by the governor.

Accordingly, this bill expands existing law, Section 10-16-8 of New Mexico's Governmental Conduct Act, which currently places a similar but much narrower moratorium on state public officials, excluding legislators and employees--they are prohibited for one year only from representing anyone for pay before the government agency at which they formerly worked. There is nothing in current law that prohibits a lobbyist's employer from hiring and compensating such persons in the year after they leave government so long as they do not appear before their prior agencies. This bill would extend the current law by prohibiting a lobbyist's employer from hiring and compensating such persons for one year, even if they don't appear before their former agencies during that year.

In addition to that change, the major advancement this bill makes is placing the one-year lobbying moratorium waiting period on legislators.

ADMINISTRATIVE IMPLICATIONS

The SOS will need to educate lobbyists and elected and appointed officials on the proposed restriction, and refer any suspected violations to the Attorney General or a district attorney for prosecution, but the additional work required for the SOS is expected to be minimal.

RELATIONSHIP

HB 144 relates to SB 103, No Legislator Lobbying for One Year

ALTERNATIVES

The AGO states since the Governmental Conduct Act already places a one year moratorium on lobbying by public officials at their former agencies, but excludes legislators, perhaps an alternative approach would be to amend Section 10-16-8 of the Governmental Conduct Act to include this bill's provisions.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

The AGO also provided the following:

Section 10-16-3 of the Governmental Conduct Act requires legislators and public officials to treat their government position as a public trust and to use the powers and resources of public office only to advance the public interest and not to obtain personal benefits.

In contrast, lobbying by former legislators can potentially create an appearance of impropriety by creating the impression that a legislators are personally profiting by virtue of their status of formerly being a legislator. Similarly, former public officers and employees who leave government service and go immediately to work for firms in industries they previously regulated may be viewed as feathering their nest improperly, even if they do not appear for pay before their prior agencies for one year.

Failure to pass this bill may reinforce these appearances of impropriety in the public's mind, thereby undermining public trust in government.

DW/amm