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FISCAL IMPACT REPORT

ORIGINAL DATE 01/31/13

SPONSOR O'Neill LAST UPDATED _____ HB _____

SHORT TITLE Former Elected Officials as Lobbyists SB 210

ANALYST Cerny

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY13	FY14	FY15		
Minimal	Minimal	Minimal	Recurring	

(Parenthesis () Indicate Revenue Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY13	FY14	FY15	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	Minimal	Minimal	Minimal			

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Attorney General (AGO)
 Department of Finance & Administration (DFA)
 Public Regulation Commission (PRC)
 Secretary of State (SOS)

SUMMARY

Synopsis of Bill

Senate Bill 210 amends the Lobbyist Regulation Act (LRA) by placing a 1-year moratorium on lobbying by a former statewide elected official, a former public regulation commissioner, a former state legislator and a former cabinet secretary. It also prohibits a lobbyist's employer from compensating such a former public official for 1-year. The bill adds a misdemeanor penalty for violation of this new provision.

SB 210 in detail stipulates:

Section 1 includes a new section of the LRA titled: RESTRICTION ON LOBBYING BY CERTAIN FORMER PUBLIC OFFICIALS--PENALTY.

- Subsection A states that a former statewide elected official, a former public regulation commissioner, a former state legislator or a former cabinet secretary shall not accept compensation as a lobbyist for a period of one calendar year after service as a statewide elected official, public regulation commissioner, state legislator or cabinet secretary.
- Subsection B includes language that states that a lobbyist's employer shall not compensate a former statewide elected official, a former public regulation commissioner, a former state legislator or a former cabinet secretary as a lobbyist for a period of one calendar year after the person served as a statewide elected official, public regulation commissioner, state legislator or cabinet secretary.
- Subsection C states that "a person who violates a provision of this section is guilty of a misdemeanor and upon conviction shall be sentenced pursuant to the provisions of Section 31-19-1 NMSA 1978."

Section 2 includes language concerning applicability and states the provisions of this act apply to all persons who hold the office of statewide elected official, public regulation commissioner, state legislator or cabinet secretary on or after July 1, 2013.

FISCAL IMPLICATIONS

SB 210 carries minimal fiscal impact. The State would receive an unknown but likely insignificant amount each year from violators of the LRA.

SIGNIFICANT ISSUES

Moratoria on lobbying by former public officials are common across the country throughout federal, state and local governments. Currently twenty-six states place a moratorium on lobbying by former state legislators (per AGO).

The LRA defines lobbying as the attempt 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.”

AGO points out that Section 10-16-8 of New Mexico’s Governmental Conduct Act 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. However, 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 employers of lobbyists from hiring for pay the aforementioned officials for one year, regardless of whether they do or do not appear before

their former agencies or other governmental bodies during that year.

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

SB 210 does not anticipate how this bill will be enforced if enacted as no agency is identified to collect information required for enforcement.

OTHER SUBSTANTIVE ISSUES

AGO points out that Section 10-16-3 NMSA 1978 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 state official and legislators can potentially create an appearance of impropriety by creating the impression that such individuals are personally profiting by virtue of their former status. Failure to pass this bill may reinforce appearances of impropriety in the minds of the public, thereby undermining trust in government.

ALTERNATIVES

AGO states that since the Governmental Conduct Act already places a 1-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.

CAC/bm