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FISCAL IMPACT REPORT

SPONSOR Dines ORIGINAL DATE 2/4/15
LAST UPDATED _____ HB 241

SHORT TITLE Public Officials as Lobbyists SB _____

ANALYST Jorgensen

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY15	FY16	FY17	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	NFI	NFI	NFI			

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Public Defender Department
Public Resolution Commission
Secretary of State (SOS)

SUMMARY

Synopsis of Bill

House Bill 241 amends the Lobbyist Regulation Act (LRA) to prohibit former PRC commissioners, former legislators and former cabinet secretaries from accepting compensation as lobbyists for a period of calendar two years following the end of their service.

In addition, HB 241 prohibits employers of lobbyists from compensating elected officials for a period of two calendar years after service and imposes a misdemeanor criminal penalty if violated.

HB 241 would 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, 2015.

FISCAL IMPLICATIONS

There would be no fiscal impact related to tracking and reporting for the SOS.

SIGNIFICANT ISSUES

NMSA 1978, Section 2-11-2, in the Lobbyist Regulation Act (LRA), defines a lobbyist as “any individual who is compensated for the specific purpose of lobbying; is designated by an interest group or organization to represent it on a substantial or regular basis for the purpose of lobbying; or in the course of his employment is engaged in lobbying on a substantial or regular basis.” It also specifically excludes “any elected or appointed officer of the state or its political subdivisions.” The LRA in the same section 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 analysis on a prior bill 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 two years, 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 places a two-year lobbying moratorium waiting period on legislators.

HB 241 does not restrict the former elected or appointed officials from lobbying without compensation on issues they are interested in. It does not appear to infringe upon an individual’s First Amendment rights to free speech and freedom of association.

PERFORMANCE IMPLICATIONS

SOS analysis states that: “The SOS is charged with administration of the Lobbyist Regulation Act, and would be the office to investigate complaints arising under this bill. This bill does not create any significant issues for the SOS.”

OTHER SUBSTANTIVE ISSUES

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.”

The National Conference of State Legislatures states:

At least 32 states have enacted a “cooling-off period” before a former legislator can come back to work at the legislature as a lobbyist. Also known as revolving door laws, statutes range from Maryland, where the ban is until the conclusion of the next regular session, to eight states—Alabama, Colorado, Florida, Iowa, Kentucky, Louisiana, Montana, and New York—that ban former legislators for two years. <http://www.ncsl.org/research/ethics/50-state-table-revolving-door-prohibitions.aspx>