

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

SENATE BILL 255

52ND LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2016

INTRODUCED BY

Jacob R. Candelaria

AN ACT

RELATING TO UNEMPLOYMENT; CLARIFYING THE DEFINITION OF
"EMPLOYMENT" IN THE UNEMPLOYMENT COMPENSATION LAW.

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

SECTION 1. Section 51-1-44 NMSA 1978 (being Laws 1977,
Chapter 227, Section 6, as amended) is amended to read:

"51-1-44. ADDITIONAL DEFINITIONS.--

A. For purposes of the Unemployment Compensation
Law:

~~[A.]~~ (1) "employment" means service performed
by an individual in the employ of a governmental entity unless
such service is performed by an individual in the exercise of
~~[his]~~ the individual's duties:

~~(1)~~ (a) as an elected official;

~~(2)~~ (b) as a member of a legislative

underscored material = new
[bracketed material] = delete

1 body or a member of the judiciary of a governmental entity of
2 this state;

3 [~~(3)~~] (c) as a member of the national
4 guard or air national guard;

5 [~~(4)~~] (d) as an employee serving on a
6 temporary basis in case of fire, snow, earthquake, flood or
7 similar emergency; or

8 [~~(5)~~] (e) in a position which, under or
9 pursuant to state law, is designated as: [~~(a)~~] 1) a major
10 [~~non-tenured~~] nontenured policymaking or advisory position; or
11 [~~(b)~~] 2) a policymaking or advisory position the performance of
12 the duties of which ordinarily does not require more than eight
13 hours per week;

14 [~~B-~~] (2) "governmental entity" means the state
15 or any political subdivision thereof, or any instrumentality of
16 any one or more of the foregoing [~~which~~] that is wholly owned
17 by one or more states or political subdivisions;

18 [~~G-~~] (3) "local public body" means all
19 political subdivisions of the state or any of their agencies,
20 instrumentalities and institutions or any county hospitals or
21 outpatient clinics thereof, leased to, or operated under an
22 agreement with, a state educational institution named in
23 Article 12, Section 11 of the constitution of New Mexico. The
24 term "local public body" shall not be construed to mean school
25 districts; and

.203092.3SA

underscored material = new
[bracketed material] = delete

1 [~~D-~~] (4) "state" or "state agency" means the
2 state of New Mexico or any of its branches, agencies,
3 departments, boards, instrumentalities or institutions and all
4 school districts of this state.

5 B. As used in this section:

6 (1) "advisory" means that the duties of the
7 individual in the position include counseling and advising
8 government entities and officers with respect to policy,
9 program and administration even if the position does not have
10 the authority to implement recommendations resulting from the
11 advice or counsel;

12 (2) "major" means that the duties of the
13 individual in the position are significant or conspicuous in
14 scope and have a substantial impact on the programs, operations
15 or budget of a governmental entity, organization or political
16 entity;

17 (3) "nontenured" means that the individual's
18 position is at-will and is not subject to merit system or civil
19 service law or rules with respect to duration of appointment to
20 the service; and

21 (4) "policymaking" means that the duties of
22 the individual in the position include determining the
23 direction, emphasis and scope of action in the development and
24 administration of governmental programs."