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SENATE BILL 313

44TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1999

INTRODUCED BY

L. Skip Vernon

AN ACT

RELATING TO THE PUBLIC REGULATION COMMISSION; DEFINING
ELECTION CYCLE FOR THE PURPOSES OF CAMPAIGN CONTRIBUTIONS.

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

Section 1. Section 8-8-19 NMSA 1978 (being Laws 1998,
Chapter 108, Section 19) is amended to read:

"8-8-19. PROHIBITED ACTS-- CANDIDATES-- COMMISSIONERS AND
EMPLOYEES. --

A. As used in this section, in addition to the
definitions provided in Section [~~2 of the Public Regulation
Commission Act~~] 8-8-2 NMSA 1978:

(1) "affiliated interest" means a person who
directly controls or is controlled by or is under common
control with a regulated entity, including an agent,
representative, attorney, employee, officer, owner, director

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[bracketed material] = delete

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1 or partner of an affiliated interest. For the purposes of
2 this definition, "control" includes the possession of the
3 power to direct or cause the direction of the management and
4 policies of a person, whether directly or indirectly, through
5 the ownership, control or holding with the power to vote of
6 ten percent or more of the person's voting securities;

7 (2) "election cycle" means the time during
8 which a candidate is required to file a campaign report for a
9 primary or general election as provided in Subsection E of
10 Section 1-19-29 NMSA 1978;

11 [~~(2)~~] (3) "intervenor" means a person who is
12 intervening as a party in an adjudicatory matter or commenting
13 in a rulemaking pending before the commission or has
14 intervened in an adjudicatory or rulemaking matter before the
15 commission within the preceding twenty-four months, including
16 an agent, representative, attorney, employee, officer, owner,
17 director, partner or member of an intervenor;

18 [~~(3)~~] (4) "pecuniary interest" includes
19 owning or controlling securities; serving as an officer,
20 director, partner, owner, employee, attorney or consultant; or
21 otherwise benefiting from a business relationship. "Pecuniary
22 interest" does not include an investment in a mutual fund or
23 similar third-party-controlled investment, pension or
24 disability benefits or an interest in capital credits of a
25 rural electric cooperative or telephone cooperative because of

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1 current or past patronage; and

2 [~~(4)~~] (5) "regulated entity" means a person
3 whose charges for services to the public are regulated by the
4 commission and includes any direct or emerging competitors of
5 a regulated entity and includes an agent, representative,
6 attorney, employee, officer, owner, director or partner of the
7 regulated entity.

8 B. In addition to the requirements of the Campaign
9 Reporting Act, the Financial Disclosure Act and the
10 Governmental Conduct Act, candidates for the commission,
11 commissioners and employees of the commission shall comply
12 with the requirements of this section and Sections [~~17 and 18~~
13 ~~of the Public Regulation Commission Act~~] 8-8-17 and 8-8-18
14 NMSA 1978, as applicable.

15 C. A candidate for election to the [~~public~~
16 ~~regulation~~] commission shall not solicit or accept:

17 (1) anything of value, either directly or
18 indirectly, from a person whose charges for services to the
19 public are regulated by the commission. For the purposes of
20 this paragraph, "anything of value" includes money, in-kind
21 contributions and volunteer services to the candidate or his
22 campaign organization, but does not include pension or
23 disability benefits; or

24 (2) more than five hundred dollars (\$500) per
25 election cycle from any other person.

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D. A commissioner or employee of the commission shall not:

(1) accept anything of value from a regulated entity, affiliated interest or intervenor. For the purposes of this paragraph, a commissioner may accept allowable campaign contributions when campaigning for reelection. For the purposes of this paragraph, "anything of value" does not include:

(a) the cost of refreshments totaling no more than five dollars (\$5.00) a day or refreshments at a public reception or other public social function that are available to all guests equally;

(b) inexpensive promotional items that are available to all customers of the regulated entity, affiliated interest or intervenor; or

(c) pension or disability benefits received from a regulated entity, affiliated interest or intervenor;

(2) have a pecuniary interest in a regulated entity, affiliated interest or intervenor, and if a pecuniary interest in an intervenor develops, the commissioner or employee shall divest himself of that interest or recuse himself from the proceeding with the intervenor interest; or

(3) solicit any regulated entity, affiliated interest or intervenor to appoint a person to a position or

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1 employment in any capacity.

2 E. After leaving the commission:

3 (1) a former commissioner shall not be
4 employed or retained in a position that requires appearances
5 before the commission by a regulated entity, affiliated
6 interest or intervenor within two years of his separation from
7 the commission;

8 (2) a former employee shall not appear before
9 the commission representing a party to an adjudication or a
10 participant in a rulemaking within one year of ceasing to be
11 an employee; and

12 (3) a former commissioner or employee shall
13 not represent a party before the commission or a court in a
14 matter that was pending before the commission while the
15 commissioner or employee was associated with the commission
16 and in which he was personally and substantially involved [in
17 ~~the matter~~].

18 F. The attorney general or a district attorney may
19 institute a civil action in the district court for Santa Fe
20 county or, in his discretion, the district court for the
21 county in which a defendant resides if a violation of this
22 section has occurred or to prevent a violation of this
23 section. A civil penalty may be assessed in the amount of two
24 hundred fifty dollars (\$250) for each violation, not to exceed
25 five thousand dollars (\$5,000). "

1 FORTY-FOURTH LEGISLATURE
2 FIRST SESSION, 1999
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5 February 11, 1999
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8 Mr. President:

9
10 Your RULES COMMITTEE, to whom has been referred

11
12 SENATE BILL 313
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14 has had it under consideration and reports same with
15 recommendation that it DO PASS, and thence referred to the
16 CORPORATIONS & TRANSPORTATION COMMITTEE.

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18 Respectfully submitted,
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24 _____
25 Gloria Howes, Co-Chair

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1 Adopted _____ Not

2 Adopted _____

3 (Chief Clerk)

(Chief Clerk)

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6 Date _____

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9 The roll call vote was 6 For 0 Against

10 Yes: 6

11 No: 0

12 Excused: Adair, Gorham

13 Absent: None

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