

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 1137

48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007

INTRODUCED BY

John T. L. Grubescic

AN ACT

RELATING TO LOBBYIST REGULATION; AMENDING THE LOBBYIST
REGULATION ACT TO REQUIRE LOBBYIST COMPENSATION TO BE
REPORTED.

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

Section 1. Section 2-11-2 NMSA 1978 (being Laws 1977,
Chapter 261, Section 2, as amended) is amended to read:

"2-11-2. DEFINITIONS. -- As used in the Lobbyist
Regulation Act:

A. "compensation" means any money, per diem,
salary, fee or portion thereof or the equivalent in services
rendered or in-kind contributions received or to be received
in return for lobbying services performed or to be performed;

B. "expenditure" means a payment, transfer or
distribution or obligation or promise to pay, transfer or

underscored material = new
[bracketed material] = delete

1 distribute any money or other thing of value. "Expenditure"
2 includes the compensation paid to a lobbyist by a lobbyist's
3 employer but does not include a lobbyist's own personal living
4 expenses and the expenses incidental to establishing and
5 maintaining an office in connection with lobbying activities
6 [~~or compensation paid to a lobbyist by a lobbyist's employer~~];

7 C. "legislative committee" means a committee
8 created by the legislature, including interim and standing
9 committees of the legislature;

10 D. "lobbying" means attempting to influence:

11 (1) a decision related to any matter to be
12 considered or being considered by the legislative branch of
13 state government or any legislative committee or any
14 legislative matter requiring action by the governor or
15 awaiting action by the governor; or

16 (2) an official action;

17 E. "lobbyist" means any individual who is
18 compensated for the specific purpose of lobbying; is
19 designated by an interest group or organization to represent
20 it on a substantial or regular basis for the purpose of
21 lobbying; or in the course of [his] employment, is engaged in
22 lobbying on a substantial or regular basis. "Lobbyist" does
23 not include:

24 (1) an individual who appears on [his] the
25 individual's own behalf in connection with legislation or an

underscored material = new
[bracketed material] = delete

1 official action;

2 (2) [~~any~~] an elected or appointed officer of
3 the state or its political subdivisions or an Indian tribe or
4 pueblo acting in [~~his~~] the officer's official capacity;

5 (3) an employee of the state or its political
6 subdivisions, specifically designated by an elected or
7 appointed officer of the state or its political subdivision,
8 who appears before a legislative committee or in a rulemaking
9 proceeding only to explain the effect of legislation or a rule
10 on [~~his~~] the designated employee's agency or political
11 subdivision, provided the elected or appointed officer of the
12 state or its political subdivision keeps for public inspection
13 and files with the secretary of state such designation;

14 (4) [~~any~~] a designated member of the staff of
15 an elected state official, provided the elected state official
16 keeps for public inspection and files with the secretary of
17 state such designation;

18 (5) a member of the legislature, the staff of
19 [~~any~~] a member of the legislature or the staff of [~~any~~] a
20 legislative committee when addressing legislation;

21 (6) [~~any~~] a witness called by a legislative
22 committee or administrative agency to appear before that
23 legislative committee or agency in connection with legislation
24 or an official action;

25 (7) an individual who provides only oral or

underscored material = new
[bracketed material] = delete

1 written public testimony in connection with a legislative
2 committee or in a rulemaking proceeding and whose name and the
3 interest on behalf of which [~~he~~] the individual testifies have
4 been clearly and publicly identified; or

5 (8) a publisher, owner or employee of the
6 print media, radio or television, while gathering or
7 disseminating news or editorial comment to the general public
8 in the ordinary course of business;

9 F. "lobbyist's employer" means the person whose
10 interests are being represented and by whom a lobbyist is
11 directly or indirectly retained, compensated or employed;

12 G. "official action" means the action or nonaction
13 of a state official or state agency, board or commission
14 acting in a rulemaking proceeding;

15 H. "person" means an individual, partnership,
16 association, committee, federal, state or local governmental
17 entity or agency, however constituted, public or private
18 corporation or any other organization or group of persons who
19 are voluntarily acting in concert;

20 I. "political contribution" means a gift,
21 subscription, loan, advance or deposit of [~~any~~] money or other
22 thing of value, including the estimated value of an in-kind
23 contribution, that is made or received for the purpose of
24 influencing a primary, general or statewide election,
25 including a constitutional or other question submitted to the

underscored material = new
[bracketed material] = delete

1 voters, or for the purpose of paying a debt incurred in any
2 such election;

3 J. "prescribed form" means a form prepared and
4 prescribed by the secretary of state;

5 K. "rulemaking proceeding" means a formal process
6 conducted by a state agency, board or commission for the
7 purpose of adopting a rule, regulation, standard, policy or
8 other requirement of general applicability and does not
9 include adjudicatory proceedings; and

10 L. "state public officer" means a person holding a
11 statewide office provided for in the constitution of New
12 Mexico. "

13 Section 2. Section 2-11-3 NMSA 1978 (being Laws 1977,
14 Chapter 261, Section 3, as amended) is amended to read:

15 "2-11-3. REGISTRATION STATEMENT TO BE FILED-- CONTENTS--
16 MODIFICATION TO STATEMENT. --

17 A. In the month of January prior to each regular
18 session or before any service covered by the Lobbyist
19 Regulation Act commences, [any] an individual who is initially
20 employed or retained as a lobbyist shall register with the
21 secretary of state by paying an annual filing fee of twenty-
22 five dollars (\$25.00) for each of the lobbyist's employers and
23 by filing a single registration statement under oath on a
24 prescribed form showing:

25 (1) the lobbyist's full name, permanent

underscored material = new
[bracketed material] = delete

1 business address and business address while lobbying; and

2 (2) the name and address of each of the
3 lobbyist's employers.

4 B. No registration fee shall be required of
5 individuals receiving only reimbursement of personal expenses
6 and no other compensation or salary for lobbying. No
7 expenditure statement required by Section 2-11-6 NMSA 1978
8 shall be required if the lobbyist anticipates making or
9 incurring and makes or incurs no expenditures or political
10 contributions under Section 2-11-6 NMSA 1978. The lobbyist
11 shall indicate in [~~his~~] the lobbyist's registration statement
12 whether those circumstances apply to [~~him~~] the lobbyist.

13 C. For each employer listed in Paragraph (2) of
14 Subsection A of this section, the lobbyist shall file the
15 following information:

16 (1) a full disclosure of the sources of funds
17 used for lobbying;

18 (2) a written statement from each of the
19 lobbyist's employers authorizing [~~him~~] the lobbyist to lobby
20 on the employer's behalf;

21 (3) a brief description of the matters in
22 reference to which the service is to be rendered; [~~and~~]

23 (4) the compensation to be paid the lobbyist
24 for lobbying services; and

25 [~~(4)~~] (5) the name and address of the person,

underscored material = new
[bracketed material] = delete

1 if other than the lobbyist or [~~his~~] the lobbyist's employer,
2 who will have custody of the accounts, bills, receipts, books,
3 papers and documents required to be kept under the provisions
4 of the Lobbyist Regulation Act.

5 D. For each succeeding year that an individual is
6 employed or retained as a lobbyist by the same employer, and
7 for whom all the information disclosed in the initial
8 registration statement remains substantially the same, the
9 lobbyist shall file a simple annual registration renewal in
10 January and pay the twenty-five-dollar (\$25.00) filing fee for
11 each of the lobbyist's employers together with a short,
12 abbreviated prescribed form for renewal.

13 E. Whenever there is a modification of the facts
14 required to be set forth by this section or there is a
15 termination of the lobbyist's employment as a lobbyist before
16 the end of the calendar year, the lobbyist shall notify the
17 secretary of state within one month of such occurrence and
18 shall furnish full information concerning the modification or
19 termination. If the lobbyist's employment terminates at the
20 end of a calendar year, no separate termination report need be
21 filed. "

22 Section 3. Section 2-11-6 NMSA 1978 (being Laws 1977,
23 Chapter 261, Section 6, as amended) is amended to read:

24 "2-11-6. EXPENDITURE AND COMPENSATION REPORT TO BE FILED
25 -- CONTENTS -- REPORTING PERIODS. --

underscored material = new
[bracketed material] = delete

1 A. Each lobbyist or lobbyist's employer who
2 receives compensation for lobbying services or who makes or
3 incurs expenditures or political contributions for the benefit
4 of or in opposition to a state legislator or candidate for the
5 state legislature, a state public officer or candidate for
6 state public office, a board or commission member or state
7 employee who is involved in an official action affecting the
8 lobbyist's employer or in support of or in opposition to a
9 ballot issue or pending legislation or official action shall
10 file an expenditure and compensation report with the secretary
11 of state on a prescribed form or in an electronic format
12 approved by the secretary of state. The expenditure and
13 compensation report shall include a sworn statement that sets
14 forth:

15 (1) the cumulative total of the expenditures
16 made or incurred, separated into categories that identify the
17 total separate amounts spent on:

- 18 (a) meals and beverages;
- 19 (b) other entertainment expenditures;
- 20 (c) gifts; and
- 21 (d) other expenditures;

22 (2) each political contribution made,
23 identified by amount, date and name of the candidate or ballot
24 issue supported or opposed; [and]

25 (3) the names, addresses and occupations of

underscored material = new
[bracketed material] = delete

1 other contributors and the amounts of their separate political
2 contributions if the lobbyist or lobbyist's employer delivers
3 directly or indirectly separate contributions from those
4 contributors in excess of five hundred dollars (\$500) in the
5 aggregate for each election to a candidate, a campaign
6 committee or anyone authorized by a candidate to receive funds
7 on the candidate's behalf;

8 (4) in a report filed by a lobbyist, the
9 compensation received by the lobbyist from each of the
10 lobbyist's employers; and

11 (5) in a report filed by a lobbyist's
12 employer, the total compensation paid each lobbyist by the
13 employer for lobbying services.

14 B. If the expenditure and compensation report is
15 filed electronically, the report shall be electronically
16 authenticated by the lobbyist or the lobbyist's employer using
17 an electronic signature as prescribed by the secretary of
18 state in conformance with the Electronic Authentication of
19 Documents Act and the Uniform Electronic Transactions Act.
20 For the purposes of the Lobbyist Regulation Act, a report that
21 is electronically authenticated in accordance with the
22 provisions of this subsection shall be deemed to have been
23 subscribed and sworn to by the lobbyist or the lobbyist's
24 employer that is required to file the report.

25 C. In identifying expenditures pursuant to the

underscored material = new
[bracketed material] = delete

1 provisions of Paragraph (1) of Subsection A of this section,
2 any individual expenditure that is more than the threshold
3 level established in the Internal Revenue Code of 1986, as
4 amended, that must be reported separately to claim a business
5 expense deduction, as published by the secretary of state,
6 shall be identified by amount, date, purpose, type of
7 expenditure and name of the person who received or was
8 benefited by the expenditure; provided, in the case of special
9 events, including parties, dinners, athletic events,
10 entertainment and other functions, to which all members of the
11 legislature, to which all members of either house or any
12 legislative committee or to which all members of a board or
13 commission are invited, expenses need not be allocated to each
14 individual who attended, but the date, location, name of the
15 body invited and total expenses incurred shall be reported.

16 D. The reports required pursuant to the provisions
17 of the Lobbyist Regulation Act shall be filed:

18 (1) by January 15 for all compensation
19 received and all expenditures and political contributions made
20 or incurred during the preceding year and not previously
21 reported;

22 (2) within forty-eight hours for each
23 separate expenditure made or incurred during a legislative
24 session that was for five hundred dollars (\$500) or more; and

25 (3) by May 1 for all compensation received

underscored material = new
[bracketed material] = delete

1 and all expenditures and political contributions made or
2 incurred through April 25 of the current year and not
3 previously reported.

4 E. A lobbyist's personal living expenses and the
5 expenses incidental to establishing and maintaining an office
6 in connection with lobbying activities [~~or compensation paid~~
7 ~~to a lobbyist by a lobbyist's employer~~] need not be reported.

8 F. A lobbyist or lobbyist's employer shall obtain
9 and preserve all records, accounts, bills, receipts, books,
10 papers and documents necessary to substantiate the financial
11 statements required to be made under the Lobbyist Regulation
12 Act for a period of two years from the date of filing of the
13 report containing such items. When the lobbyist is required
14 under the terms of the lobbyist's employment to turn over any
15 such records to the lobbyist's employer, responsibility for
16 the preservation of them as required by this section and the
17 filing of reports required by this section shall rest with the
18 employer. Such records shall be made available to the
19 secretary of state or attorney general upon written request.

20 G. [~~Any~~] A lobbyist's employer who also engages in
21 lobbying shall comply with the provisions of the Lobbyist
22 Regulation Act.

23 H. An organization of two or more persons,
24 including an individual who [~~holds himself out~~] makes any
25 representation as being an organization, that within one

underscored material = new
[bracketed material] = delete

1 calendar year expends funds in excess of two thousand five
2 hundred dollars (\$2,500) not otherwise reported under the
3 Lobbyist Regulation Act to conduct an advertising campaign for
4 the purpose of lobbying shall register with the secretary of
5 state within forty-eight hours after expending two thousand
6 five hundred dollars (\$2,500). Such registration shall
7 indicate the name of the organization and the names, addresses
8 and occupations of any of its principals, organizers or
9 officers and shall include the name of any lobbyist or
10 lobbyist's employer who is a member of the organization.
11 Within fifteen days after a legislative session, the
12 organization shall report the contributions, pledges to
13 contribute, expenditures and commitments to expend for the
14 advertising campaign for the purpose of lobbying, including
15 the names, addresses and occupations of the contributors, to
16 the secretary of state on a prescribed form."

17 Section 4. Section 2-11-7 NMSA 1978 (being Laws 1977,
18 Chapter 261, Section 7, as amended) is amended to read:

19 "2-11-7. REGISTRATION [~~AND EXPENDITURE~~] STATEMENT--
20 EXPENDITURE AND COMPENSATION REPORT--PRESERVATION AS PUBLIC
21 RECORD. --Each registration [~~and expenditure~~] statement and
22 each expenditure and compensation report as required by the
23 Lobbyist Regulation Act shall be preserved by the secretary of
24 state for a period of two years from the date of filing as a
25 public record, open to public inspection at any reasonable

1 time. Unless an action or prosecution is pending that
2 requires preserving the report, it may be destroyed two years
3 after the date of filing."

4 Section 5. EFFECTIVE DATE.--The effective date of the
5 provisions of this act is July 1, 2007.

6 - 13 -
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

underscored material = new
[bracketed material] = delete