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HOUSE BILL 163

**50TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2012**

INTRODUCED BY

Nate Gentry and Dede Feldman

AN ACT

RELATING TO ETHICS; SEPARATING THE DEFINITION OF "EMPLOYEE"  
FROM THAT OF "PUBLIC OFFICER"; LIMITING LOBBYING BY FORMER  
PUBLIC OFFICERS.

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

**SECTION 1.** Section 10-16-2 NMSA 1978 (being Laws 1967,  
Chapter 306, Section 2, as amended) is amended to read:

"10-16-2. DEFINITIONS.--As used in the Governmental  
Conduct Act:

A. "business" means a corporation, partnership,  
sole proprietorship, firm, organization or individual carrying  
on a business;

B. "confidential information" means information  
that by law or practice is not available to the public;

C. "contract" means an agreement or transaction

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1 having a value of more than one thousand dollars (\$1,000) with  
2 a state or local government agency for:

3 (1) the rendition of services, including  
4 professional services;

5 (2) the furnishing of any material, supplies  
6 or equipment;

7 (3) the construction, alteration or repair of  
8 any public building or public work;

9 (4) the acquisition, sale or lease of any land  
10 or building;

11 (5) a licensing arrangement;

12 (6) a loan or loan guarantee; or

13 (7) the purchase of financial securities or  
14 instruments;

15 D. "employee" means any person who is hired by any  
16 state agency and who receives compensation in the form of  
17 salary or is eligible for per diem or mileage;

18 [~~D.~~] E. "employment" means rendering of services  
19 for compensation in the form of salary as an employee;

20 [~~E.~~] F. "family" means an individual's spouse,  
21 parents, children or siblings, by consanguinity or affinity;

22 [~~F.~~] G. "financial interest" means an interest held  
23 by an individual or the individual's family that is:

24 (1) an ownership interest in business or  
25 property; or

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1 (2) any employment or prospective employment  
2 for which negotiations have already begun;

3 [~~G.~~] H. "local government agency" means a political  
4 subdivision of the state or an agency of a political  
5 subdivision of the state;

6 [~~H.~~] I. "official act" means an official decision,  
7 recommendation, approval, disapproval or other action that  
8 involves the use of discretionary authority;

9 [~~I.~~] J. "public officer [~~or employee~~]" means any  
10 elected or appointed official [~~or employee~~] of a state agency  
11 or local government agency who receives compensation in the  
12 form of salary or is eligible for per diem or mileage but  
13 excludes legislators;

14 [~~J.~~] K. "standards" means the conduct required by  
15 the Governmental Conduct Act;

16 [~~K.~~] L. "state agency" means any branch, agency,  
17 instrumentality or institution of the state; and

18 [~~L.~~] M. "substantial interest" means an ownership  
19 interest that is greater than twenty percent."

20 SECTION 2. Section 10-16-8 NMSA 1978 (being Laws 1967,  
21 Chapter 306, Section 8, as amended) is amended to read:

22 "10-16-8. CONTRACTS INVOLVING FORMER PUBLIC OFFICERS OR  
23 EMPLOYEES--REPRESENTATION OF CLIENTS AFTER GOVERNMENT  
24 SERVICE.--

25 A. A state agency shall not enter into a contract

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1 with, or take any action favorably affecting, any person or  
2 business that is:

3 (1) represented personally in the matter by a  
4 person who has been a public officer or employee of the state  
5 within the preceding year if the value of the contract or  
6 action is in excess of one thousand dollars (\$1,000) and the  
7 contract is a direct result of an official act by the public  
8 officer or employee; or

9 (2) assisted in the transaction by a former  
10 public officer or employee of the state whose official act,  
11 while in state employment, directly resulted in the agency's  
12 making that contract or taking that action.

13 B. A former public officer or employee shall not  
14 represent a person in the person's dealings with the government  
15 on a matter in which the former public officer or employee  
16 participated personally and substantially while a public  
17 officer or employee.

18 C. A local government agency shall not enter into a  
19 contract with, or take any action favorably affecting, any  
20 person or business that is:

21 (1) represented personally in the matter by a  
22 person who has been a public officer or employee of that local  
23 government agency within the preceding year if the value of the  
24 contract or action is in excess of one thousand dollars  
25 (\$1,000) and the contract is a direct result of an official act

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1 by the public officer or employee; or

2 (2) assisted in the transaction by a former  
3 public officer or employee of that political subdivision of the  
4 state whose official act, while in employment with that  
5 political subdivision of the state, directly resulted in the  
6 agency's making that contract or taking that action.

7 D. For a period of one year after leaving  
8 government service or employment, a former public officer or  
9 employee shall not represent for pay a person before the state  
10 agency or local government agency at which the former public  
11 officer or employee served or worked.

12 E. For a period of two years after leaving  
13 government service or employment, a former public officer or a  
14 legislator shall not act as a lobbyist, as defined in the  
15 Lobbyist Regulation Act."

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