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HOUSE BILL 278

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

INTRODUCED BY

Ben Lujan

AN ACT

RELATING TO WORKERS' COMPENSATION; AMENDING THE WORKERS' COMPENSATION ACT TO INCLUDE NONSALARIED PUBLIC OFFICERS WITHIN THE DEFINITION OF "PUBLIC EMPLOYEE".

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

Section 1. Section 52-1-3.1 NMSA 1978 (being Laws 1979, Chapter 199, Section 2, as amended) is amended to read:

"52-1-3.1. PUBLIC EMPLOYEE. --As used in the Workers' Compensation Act, unless otherwise provided, "public employee" means any person receiving a salary from, and acting in the service of, the state or any county, municipality, school district, drainage, irrigation or conservancy district, public institution or administrative board [~~including elected or appointed public officers~~]. The term "public employee" includes a salaried or nonsalaried public officer but does not

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1 include an independent contractor; provided that the average
2 weekly wage, determined pursuant to Section 52-1-20 NMSA 1978,
3 for a nonsalaried public officer shall be zero. "

4 Section 2. Section 52-1-16 NMSA 1978 (being Laws 1965,
5 Chapter 295, Section 9, as amended) is amended to read:

6 "52-1-16. WORKER--REAL ESTATE SALESPERSON EXCEPTED. --

7 A. As used in the Workers' Compensation Act,
8 unless the context otherwise requires, "worker" means any
9 person who has entered into the employment of or works under
10 contract of service or apprenticeship with an employer, except
11 a person whose employment is purely casual and not for the
12 purpose of the employer's trade or business. The term
13 "worker" shall include "employee" and shall include the
14 singular and plural of both sexes. "Worker" includes public
15 employee, as defined in the Workers' Compensation Act,
16 including salaried and nonsalaried public officers.

17 B. For the purposes of the Workers' Compensation
18 Act, an individual who performs services as a qualified real
19 estate salesperson shall not be treated as an employee and the
20 person for whom the services are performed shall not be
21 treated as an employer.

22 C. For the purpose of Subsection B of this
23 section, a "qualified real estate salesperson" means an
24 individual who:

25 (1) is a licensed real estate salesperson,

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1 associate broker or broker under contract with a real estate
2 firm;

3 (2) receives substantially all of his
4 remuneration, whether or not paid in cash, for the services
5 performed as a real estate salesperson, associate broker or
6 broker under contract with a real estate firm in direct
7 relation to sales or other output, including the performance
8 of services, rather than to the number of hours worked; and

9 (3) performs services pursuant to a written
10 contract between himself and the person for whom the services
11 are performed, and the contract provides that the individual
12 will not be treated as an employee with respect to such
13 services. "

1 FORTY-FOURTH LEGISLATURE
2 FIRST SESSION, 1999
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6 February 24, 1999
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8 Mr. Speaker:
9

10 Your JUDICIARY COMMITTEE, to whom has been referred
11

12 HOUSE BILL 278
13

14 has had it under consideration and reports same with
15 recommendation that it DO PASS, amended as follows:

- 16
- 17 1. On page 1, line 25, after "salaried" insert "public
18 officer".
 - 19 2. On page 1, line 25, after "nonsalaried" insert
20 "state".
 - 21
 - 22 3. On page 2, line 3, after "nonsalaried" insert
23 "state".
 - 24
 - 25 4. On page 2, line 16, after "salaried" strike the
remainder of the line and insert in lieu thereof "public

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officers and nonsalaried state public officers."

Respectfully submitted,

R. David Pederson, Chairman

Adopted _____

Not Adopted _____

(Chief Clerk)

(Chief Clerk)

Date _____

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FORTY-FOURTH LEGISLATURE
FIRST SESSION, 1999

HJC/HB 278

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The roll call vote was 9 For 0 Against

Yes: 9

Excused: Luna, Mallory, Sanchez

Absent: None

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2 FORTY-FOURTH LEGISLATURE
3 FIRST SESSION, 1999

HB 278/a

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5 March 14, 1999
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8 Mr. President:
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10 Your JUDICIARY COMMITTEE, to whom has been referred
11

12 HOUSE BILL 278, as amended
13

14 has had it under consideration and reports same with
15 recommendation that it DO PASS, amended as follows:

- 16
- 17 1. Strike House Judiciary Committee Amendments 2, 3 and 4.
 - 18 2. On page 1, line 12, strike "NONSALARIED PUBLIC
19 OFFICERS" and insert in lieu thereof "LEGISLATORS".
20
 - 21 3. On page 1, line 25, strike "nonsalaried public officer"
22 and insert in lieu thereof "legislator".
23
 - 24 4. On page 2, line 3, strike "nonsalaried public officer"
25 and insert in lieu thereof "legislator".

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5. On page 2, line 16, after "salaried" strike the remainder of the line and insert in lieu thereof "public officers and legislators.",
and thence referred to the FINANCE COMMITTEE.

Respectfully submitted,

Michael S. Sanchez, Chairman

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Adopted _____ Not

Adopted _____

(Chief Clerk)

(Chief Clerk)

Date _____

The roll call vote was 5 For 0 Against

Yes: 5

No: None

Excused: Aragon, Davis, Lopez

Absent: None

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FIRST SESSI ON, 1999

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FIRST SESSI ON, 1999

March 17, 1999

Mr. Presi dent:

Your FINANCE COMMI TTEE, to whom has been referred

HOUSE BILL 278, as amended

has had it under consideration and reports same with
recomm~~endation~~ that it DO PASS.

Respectfully submi tted,

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Ben D. Altamirano, Chairman

Adopted _____ Not

Adopted _____

(Chief Clerk)

(Chief Clerk)

Date _____

The roll call vote was 7 For 0 Against

Yes: 7

No: 0

Excused: Carraro, Ingle, McKibben, Rodriguez, Smith, Tsosie

Absent: None

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1 FORTY- FOURTH LEGI SLATURE
2 FIRST SESSI ON, 1999

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6 FORTY- FOURTH LEGI SLATURE
7 FIRST SESSI ON, 1999

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10 March 17, 1999

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12 Mr. Presi dent:

13
14 Your FINANCE COMMI TTEE, to whom has been referred

15
16 HOUSE BILL 278, as amended

17 has had it under consideration and reports same with
18 recommendation that it DO PASS.

19
20 Respectfully submi tted,
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Ben D. Altamirano, Chairman

Adopted _____ Not

Adopted _____

(Chief Clerk)

(Chief Clerk)

Date _____

The roll call vote was 7 For 0 Against

Yes: 7

No: 0

Excused: Carraro, Ingle, McKibben, Rodriguez, Smith, Tsosie

Absent: None

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