

**2017 HOUSE GOVERNMENT AND VETERANS AFFAIRS**

**HB 1298**

# 2017 HOUSE STANDING COMMITTEE MINUTES

## Government and Veterans Affairs Committee Fort Union, State Capitol

HB 1298  
1/26/2017  
27477

☐ Subcommittee  
☐ Conference Committee

Committee Clerk Signature

*Carmen Hart*

### Explanation or reason for introduction of bill/resolution:

Relating to prohibiting counties, cities, and townships from contracting with lobbyists; relating to the definition of lobbyist and prohibiting lobbyists from receiving public funds from political subdivisions; and to provide a penalty

### Minutes:

Attachments 1-5

**Chairman Kasper** opened the hearing on HB 1298.

**Rep. Steiner** appeared in support of HB 1298. Attachment 1. (:11- 3:19) She read a portion of the letter of opinion that was attached to her testimony. (4:42-5:20) The attorney general has actually said in some of his rulings that he doesn't have enough direction from us so I thought we should give him some, and this is the start of it.

**Rep. Laning:** Some of the political subdivisions have full-time employees that also register as a lobbyist. Would this application spillover on them?

**Rep. Steiner:** Employees, officers, board members, and volunteers are allowed to come in on behalf of their group. One of the things I was told by the associations that are publicly funded in part was that they don't have a big enough staff and they need to have help, so they have gone to hiring contractors. We have to look at how much public money are we going to spend on this?

**Rep. B. Koppelman:** Do you believe that either in your bill or current law would prohibit a larger county where they could hire a staff member as the director of lobbying?

**Rep. Steiner:** I don't think so. I think that is a possibility that could happen. This is an effort to try and close the loophole.

**Rep. Olson:** Presently a county except in the case of a home rule cannot hire a lobbyist. It seems like you are opening that up to becoming an option through a vote of the majority of the electors. Am I correct?

**Rep. Steiner:** I did give that an option in this bill and that we could debate.

**Rep. Olson:** I also think that it is your intent that they don't do this, because they would then forfeit state paid property tax relief. Correct?

**Rep. Steiner:** Yes, they would. They would have to believe that their lobbyist would secure for them greater funds than they would receive from us.

**Rep. Olson:** If state paid property tax relief were to go away then, at that point that would no longer be an obstacle to that decision?

**Rep. Steiner:** Correct.

**Chairman Kasper:** Did you have any discussion with the 5 cities named in your testimony about their hiring a lobbyist and the benefit they saw of having a lobbyist represent them out here?

**Rep. Steiner:** No, I didn't. I looked in the lobbyist directory and the lobbyists who are carrying water for them did not put down in the lobbyist directory that they were working for them, because they are assistant attorneys and not actually working for them. I did leave a list of all the lobbyists who are registered, but it is mostly word of mouth people talk about the fact.

**Chairman Kasper:** I think a city, county, township can hire an assistant attorney any time they wish. Did you address that practice in the bill, or do you believe that the prohibition that you have here solves that issue?

**Rep. Steiner:** I was hoping that by making the county, city, and township aware that they had a risk of the state paid property tax relief against any if everybody brought a suit to challenge them from doing that, possibly that would be a deterrent.

**Chairman Kasper:** Don't those entities have the right to hire an assistant attorney at any time right now?

**Rep. Steiner:** Correct.

**Chairman Kasper:** If this bill is interpreted by them that you are prohibiting the hiring by the city, county, or township of an assistant attorney that might be for a different position, would that be any conflict that you see here?

**Rep. Steiner:** If there is proof that they are walking in the halls and talking to legislators about specific legislation, someone could bring suit that in fact they are not a specialist, just an assistant attorney working in another city and that they are in fact working here and were hired as a contract lobbyist. Maybe the court would be able to determine that.

**Rep. Schneider:** Are you making the determination that taxpayers don't want us to have some of that information that we get from lobbyists, because they are very helpful to me in the many different structures within a city and different levels of expertise.



**Rep. Steiner:** I think that the League of Cities, Association of Counties, and Western Dakota Energy Association do a great job. Their employees can come down here. This bill talks about whether they add contract lobbyists to push further other issues. I think we need to pull that scope in. It is unlimited how many contract lobbyists they could hire, and they are funded with dues that come from counties. Do you think Tioga will get something because they have someone walking the halls for them? I will pick on Tioga because it is a small city with a very small budget. They have someone down here working, and they have legislators.

**Rep. Schneider:** Wouldn't it disadvantage the city of Fargo with its large size in the state and its location 200 miles from here when you compare it to Bismarck and all the folks that can come in and give non lobbyist testimony?

**Rep. Steiner:** I can't argue about the power of Bismarck. I think the legislators from the Red River Valley do an outstanding job representing their area. I am not sure how many more contract lobbyists would have to fill that role. I think we need to limit because public money is funding it.

**Rep. C. Johnson:** The one organization that I am familiar with is the ND Township Officers' Association. Now that is what you would consider an appropriate lobbying method for the township to come to the state legislature, and if they hired a contract lawyer, then that is where we are kind out of line here?

**Rep. Steiner:** Correct.

**Chairman Kasper:** Did you have any citizen complaints or concerns about putting this bill in, or was it something over your years of observation that you felt ought to be looked at?

**Rep. Steiner:** Yes, I am concerned that my own city might consider it, because cities compete with each other sometimes. I disagree with the League of Cities that there will never be more than five cities. At one time, there was less than five cities, so it has grown.

**Chairman Kasper:** Is it just your personal observation?

**Rep. Steiner:** My personal observation.

Opposition:

**Blake Crosby, Executive Director of the North Dakota League of Cities**, appeared in opposition. Attachment 2. (19:14- 26:09) He then referred the committee to Page 2, Lines 14-16 of the bill and read them. (26:29-26:43) I really do not think we want to get into the arena of disenfranchising borders. Keep in mind that political subdivisions, and I am only going to speak for cities, have other revenue streams—city sales tax, restaurant tax, lodging tax.

Attachment 3 from **Deborah Birgen, Director of Legislative and Government Relations for Missouri River Energy Services**, was handed out by Mr. Crosby. He read from Page 3, seven sentences down. (28:39-29:17)



**Rep. B. Koppelman:** There are at least three legislators that represent every single city, and we try to be in contact with all of our cities. Don't you think that is a little bit broad to suggest that they have little or no ability to contact us in competition to professional lobbyists that might lobby on behalf of a private corporation?

**Blake Crosby:** I do not have any elected officials that don't work part time. They count on us to bring them up to speed on what is going on. We have a legislative update call every Friday afternoon. That is how they come up to speed. Otherwise, they are busy trying to make a living and trying to run their cities. If you are a private business lobbyist, you are specializing in a very narrow band. The answer to that is no.

**Rep. B. Koppelman:** Those cities that have city attorneys are capable of communicating with their legislators even if they don't actually come out here. Don't you think they are capable of doing that without having yet another special assistant for legal advice?

**Blake Crosby:** That is an incredible Segway into one of the people that are going to follow me.

**Erik Johnson, Fargo City Attorney,** appeared in opposition. Attachment 4. (33:01-37:25)

**Chairman Kasper** closed the hearing.

Attachment 5 was given to the committee later that afternoon.

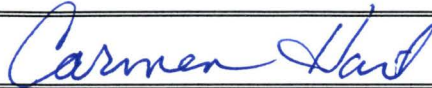
# 2017 HOUSE STANDING COMMITTEE MINUTES

## Government and Veterans Affairs Committee Fort Union, State Capitol

HB 1298  
2/10/2017  
28220

☐ Subcommittee  
☐ Conference Committee

Committee Clerk Signature



### Explanation or reason for introduction of bill/resolution:

Relating to prohibiting counties, cities, and townships from contracting with lobbyists; relating to the definition of lobbyist and prohibiting lobbyists from receiving public funds from political subdivisions; and to provide a penalty

### Minutes:

**Chairman Kasper** opened the meeting on HB 1298.

**Rep. P. Anderson** made a motion for a DO NOT PASS on HB 1298.

**Rep. Laning** seconded the motion.

**Rep. Steiner:** I do not have a problem with a do not pass. I will still vote for my own bill and plan to get up on the floor not to pass the bill but to educate the floor about the abuse of it. In my opinion our attorney general is not enforcing the laws we have. Back in the 70s counties and cities were not allowed to come down here. You were the representatives for the counties and cities. Then they formed the Association of Counties so that one employee could represent them all. Look how it has expanded.

**Rep. Olson:** County funds can't be used to lobby unless it is a home rule county that is adopted by ordinance the authority to appropriate their funds to do so. What has happened with the association is that it has been said that if there is at least one home rule county within that association, then that association, therefore, has the ability to lobby because of the presence of that one member. This is a good education for us and something for us all to be taking a close look at and deciding how we want public funds to be expended and how we want to regulate the way they go about supporting or opposing the different legislation.

**Rep. Dockter:** Associations are using local county taxpayer dollars to pay into the association for them to come and lobby.

**Rep. Steiner:** Association of Counties and League of Cities are allowed to have employees testify. There is nothing in the law that says contractors. They are using the home rule

county to extend that they can now hire a contract lobbyist. That all feeds into how much dues they request from their counties and cities.

**Vice Chair Louser:** If it were to pass based on what we have said that every county is a member of the Association of Counties, does that eliminate property tax relief in full?

**Rep. Steiner:** No, it was just if that city or county hired a contract lobbyist and it wasn't legal, then they would possibly forfeit their property tax relief if it was found that they have been in violation of current lobbying laws.

A roll call vote was taken. 13 Yeas, 1 Nay, 0 Absent.

**Rep. Dockter** will carry the bill.



Date: 2-10-17  
Roll Call Vote #: 1

2017 HOUSE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. 1298

House Government and Veterans Affairs Committee

☐ Subcommittee

Amendment LC# or Description: \_\_\_\_\_

Recommendation: ☐ Adopt Amendment  
☐ Do Pass ☒ Do Not Pass ☐ Without Committee Recommendation  
☐ As Amended ☐ Rerefer to Appropriations  
☐ Place on Consent Calendar  
Other Actions: ☐ Reconsider ☐ \_\_\_\_\_

Motion Made By B. Anderson Seconded By Laning

Representatives	Yes	No	Representatives	Yes	No
Jim Kasper-Chairman	X		Pamela Anderson	X	
Scott Louser-Vice Chairman	X		Mary Schneider	X	
Jason Dockter	X				
Craig A. Johnson	X				
Daniel Johnston	X				
Karen Karls	X				
Ben Koppelman	X				
Vernon Laning	X				
Christopher D. Olson	X				
Karen M. Rohr	X				
Vicky Steiner		X			
Steve Vetter	X				

Total (Yes) 13 No 1

Absent 0

Floor Assignment Dockter

If the vote is on an amendment, briefly indicate intent:

**REPORT OF STANDING COMMITTEE**

**HB 1298: Government and Veterans Affairs Committee (Rep. Kasper, Chairman)**  
recommends **DO NOT PASS** (13 YEAS, 1 NAYS, 0 ABSENT AND NOT VOTING).  
HB 1298 was placed on the Eleventh order on the calendar.

**2017 TESTIMONY**

**HB 1298**



Attachment 1  
1298  
1-26-17 P. 1

Mr. Chairman Kasper and committee members,

House bill 1298 relates to the prohibition of counties, cities and townships from contracting with lobbyists. It has 2 provisions: cities may no longer contract a lobbyist as an attorney on staff and public funded associations may not hire contract lobbyists with public funds.

Current law does not permit a public subdivision or an association of political subdivisions to hire a contract lobbyist. However, some cities have hired lawyers, who lobby for them.

They believe this loophole covers them but I disagree.

These attorneys are hired to do the lobbying function which has been seen as a "loophole". The point of House Bill 1298 is that tax payer money should not be used to hire lobbyists, even if they are an attorney and they are hired as a special assistant attorney to the city. The cities are circumventing the intent of the law with this supposed loophole.

There is another "loophole" that if a county or city is a home rule county or city that the lobby restriction for the state publicly funded associations doesn't apply. This bill makes it clear that, even with home rule status, state associations funded with county, city or township dollars may not hire a contract lobbyist. The Attorney General has a ruling that I've included with my testimony which the Associations use as they're protection to hire contract lobbyists. As I read his ruling, I don't see it but this bill before you should clear that up.

These associations have full time staff who also lobby which currently is allowed by law. Often times, they add contract lobbyists during the legislative session which would not be allowed under HB 1298. Their Association dues are paid by political subdivisions. How much public money needs to be spent on lobbying?

North Dakota has 53 counties and 357 cities. There are an estimated 5 cities that have paid a contract fee to a lobbyist/attorney. Tioga, Stanley, Minot, Williston and Fargo have special representation at this session, I've been told by other lobbyists. What special consideration might they hope to receive? I would submit "none".

It seems foolish to spend tax dollars to ask for more property tax relief. If the cities continue to spend money on lobbying, it increases the amount of dollars the state needs to send back for taxpayer relief.

Legislators represent their districts which include cities, counties and townships. The penalty for violating this law would be the forfeiture of the city's property tax relief from the state.

I respectfully ask for a Do Pass recommendation to the House.  
Rep. Vicky Steiner District 37

LETTER OPINION  
2015-L-07

October 29, 2015

The Honorable Rich Wardner  
State Senator  
1042 12th Ave W  
Dickinson, ND 58601-3654

Dear Senator Wardner:

Thank you for asking whether a public entity, specifically the North Dakota State Board of Dental Examiners, may hire a lobbyist with public funds if the authority to hire a lobbyist is not specifically provided by law. It is my opinion that a state agency or political subdivision may not use public funds to hire a lobbyist unless such authority is specifically provided for by statute or if the state agency or political subdivision has authority to promote or advocate in specific subject areas. Also, certain home rule counties and cities may hire a lobbyist if authorized by their home rule charter and implemented by ordinance. Public employees are exempt from the requirement to register as a lobbyist, and may testify before the Legislature on matters within their official capacities.

ANALYSIS

Regarding public funds, the North Dakota Supreme Court has held:

The people and the legislature, through the constitution and laws of this State, have delineated the parameters of the appropriate expenditure of public funds, and any expenditure in violation of those provisions by definition creates a loss to the government.<sup>1</sup>

In 1998, this office opined that public moneys provided by a county or other public entities could not be used to pay a lobbyist to appear before the Legislative Assembly in the absence of a statute specifically permitting such an expenditure, and only then if such an expenditure otherwise conformed to the relevant provisions of statutory and constitutional law.<sup>2</sup> However, this office has also indicated that it might be possible to hire a lobbyist if the state agency or political subdivision has statutory authority to promote or advocate in specific subject areas. For example, in 2002, this office determined that the North Dakota Wheat Commission, which

<sup>1</sup> State v. Blunt, 751 N.W.2d 692, 700 (N.D. 2008).

<sup>2</sup> N.D.A.G. 98-L-152. See also N.D.A.G. 64-177.



## LETTER OPINION 2015-L-07

October 29, 2015

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had the statutory authority to promote wheat-related issues, could use wheat checkoff monies to contract with other wheat organizations for lobbying services.<sup>3</sup> Also, a county or city with home rule authority allowing it to control its finances and fiscal affairs may pass an ordinance determining that it will hire a lobbyist.<sup>4</sup>

A complete answer to your question must also examine the general laws regarding legislative lobbying found in N.D.C.C. ch. 54-05.1. This chapter requires registration and reporting by any person who attempts to secure the passage, amendment, or defeat of any legislation or the approval or veto of any legislation by the Governor, and also by anyone who attempts to influence decisions made by Legislative Management or an interim committee of the Legislature.<sup>5</sup> The chapter does not apply to any person who is "[a]n employee, officer, board member, volunteer, or agent of the state or its political subdivisions whether elected or appointed and whether or not compensated, who is acting in that person's official capacity."<sup>6</sup>

Also, state laws allow counties, cities, and school districts to expend public funds for the purpose of participating in organizations of counties, cities, or school districts.<sup>7</sup> Under certain conditions, these organizations' employees and officers are not required to be registered as lobbyists.<sup>8</sup> As the law prefers substance over form,<sup>9</sup> these individuals must be bona fide employees, officers, volunteers, or agents, and not hired lobbyists masquerading as employees, officers, volunteers, or agents.<sup>10</sup>

<sup>3</sup> N.D.A.G. 2002-L-63 (N.D. Wheat Comm'n contracting with other wheat organizations for lobbying services). See also N.D.A.G. 93-L-187 (N.D. Council on the Arts contracting for lobbying services); N.D.A.G. 93-L-357 (N.D. Dep't of Human Services' Div. of Aging Services contracting with the Silver Haired Educ. Ass'n for lobbying services); and N.D.A.G. 94-L-49 (Garrison Diversion Conservancy Dist. paying membership fees to the Greater N.D. Assoc. for lobbying services).

<sup>4</sup> N.D.A.G. 2011-L-06.

<sup>5</sup> N.D.C.C. §§ 54-05.1-01, 54-05.1-02(1).

<sup>6</sup> N.D.C.C. § 54-05.1-02(2)(c). See also N.D.A.G. 2002-L-63; N.D.A.G. 77-58.

<sup>7</sup> N.D.C.C. §§ 11-11-14(15); 40-05-01(74); 15.1-09-33(18), (33).

<sup>8</sup> See N.D.A.G. 77-58 (citing Bradley v. Saxbe, 388 F.Supp. 53 (D.C.D.C.1974)).

<sup>9</sup> N.D.C.C. § 31-11-05(19).

<sup>10</sup> The exception for an agent does not imply that an agent may be hired for lobbying where the state agency is not authorized to directly hire a lobbyist. It has long been held that "the law does not permit by indirection what cannot be accomplished directly." Langenes v. Bullinger, 328 N.W.2d 241, 246 (N.D. 1982). Cf., N. States Power Co. v. Hagen, 314 N.W.2d 32, 38 (N.D.1981); State v. Skar, 313 N.W.2d 746, 748 (N.D.1981); Paluck v. Bd. of Cnty. Comm'rs, Stark Cnty., 307 N.W.2d 852, 857 (N.D.1981). Further, exceptions to statutes are strictly construed "so as not to extend the exception beyond the ordinary and literal meaning of its language." Midwest Fed. Sav. Bank v. Symington, 423 N.W.2d 797, 798 (N.D.1988) (citing Knoepfle v. Suko, 108 N.W.2d 456, 458, syl. 3 (N.D.1961)). The exception would nullify the general rule against hiring a lobbyist if it were interpreted as authority, in itself, to hire a lobbyist.



LETTER OPINION 2015-L-07

October 29, 2015

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In conclusion, it is my opinion that a state agency or political subdivision generally may not use public funds to hire a lobbyist unless such authority is specifically provided for by statute. However, it might be possible to hire a lobbyist if the state agency or political subdivision has authority to promote or advocate in specific subject areas. Also, certain home rule counties and cities may hire a lobbyist if authorized by their home rule charter and implemented by ordinance.

You specifically asked about the authority of the State Board of Dental Examiners to hire a lobbyist. That board has authority to hire an executive director, attorneys,<sup>11</sup> investigative staff, and clerical assistants.<sup>12</sup> A diligent search of all chapters in the Century Code concerning the State Board of Dental Examiners did not reveal any specific authority authorizing that Board to employ a lobbyist. Also, the Board does not have authority to promote or advocate on any particular issues. Thus, only board members and bona fide employees, officers, volunteers, or agents of the State Board of Dental Examiners may lobby the Legislative Assembly or the Governor on the Board's behalf.

Sincerely,

Wayne Stenehjem  
Attorney General

This opinion is issued pursuant to N.D.C.C. § 54-12-01. It governs the actions of public officials until such time as the question presented is decided by the courts.<sup>13</sup>

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<sup>11</sup> This power is subject to my constitutional and statutory authority to appoint assistant attorneys general and special assistant attorneys general to represent state agencies. N.D.C.C. § 54-12-08. I have not authorized the State Board of Dental Examiners to hire an outside attorney.

<sup>12</sup> N.D.C.C. § 43-28-06(5).

<sup>13</sup> See State ex rel. Johnson v. Baker, 21 N.W.2d 355 (N.D. 1946).

P. 5

**CHAPTER 54-05.1**  
**LEGISLATIVE LOBBYING**

**54-05.1-01. Legislative intent.**

It is hereby declared to be the intent of the legislative assembly to require that lobbyists register as such before engaging in lobbying activity and to require certain reporting procedures by lobbyists.

**54-05.1-02. Applicability - Meaning of lobbyist.**

1. This chapter applies to any person who, in any manner whatsoever, directly or indirectly, performs any of the following activities:
  - a. Attempts to secure the passage, amendment, or defeat of any legislation by the legislative assembly or the approval or veto of any legislation by the governor of the state.
  - b. Attempts to influence decisions made by the legislative management or by an interim committee of the legislative management.
2. This chapter does not apply to any person who is:
  - a. A legislator.
  - b. A private citizen appearing on the citizen's own behalf.
  - c. An employee, officer, board member, volunteer, or agent of the state or its political subdivisions whether elected or appointed and whether or not compensated, who is acting in that person's official capacity.
  - d. Invited by the chairman of the legislative management, an interim committee of the legislative management, or a standing committee of the legislative assembly to appear before the legislative management, interim committee, or standing committee for the purpose of providing information.
  - e. An individual who appears before a legislative committee for the sole purpose of presenting testimony on behalf of a trade or professional organization or a business or industry if the individual is introduced to the committee by the registered lobbyist for the trade or professional organization or the business or industry.
3. For the purposes of this chapter, persons required to register under this chapter because of the performance of the activities described in subsection 1 must be known as "lobbyists".

**54-05.1-03. Registration as a lobbyist - Fee - Filing of information - Public inspection - Certificate of registration.**

1.
  - a. Before engaging in any of the activities listed in section 54-05.1-02, an individual shall register with the secretary of state and receive a certificate of registration and a distinctive lobbyist identification badge that must be prominently worn by the lobbyist when engaged in any of the activities listed in section 54-05.1-02 while on the capitol grounds. In lieu of wearing the official badge provided by the secretary of state, a lobbyist may wear a reasonable reproduction of the official badge that contains the name of the lobbyist and any of the following: the word lobbyist, the registration number of the lobbyist, or the organization name of the lobbyist in characters no smaller than one-quarter inch [6.35 millimeters]. If a lobbyist's official badge is lost or destroyed, the lobbyist may obtain a duplicate badge by applying to the secretary of state and paying a fee of ten dollars.
  - b. The registrant shall state in writing:
    - (1) The registrant's full name and business address; and
    - (2) The name and address of any person upon whose behalf the registrant appears, any person in whose interest the registrant appears or works, the duration of the employment or appearances, and by whom the registrant is paid or is to be paid.



- c. The registration period commences on July first and expires on June thirtieth of the following calendar year unless an earlier expiration date is requested by the registrant.
  - d. Each lobbyist shall file with the secretary of state, before the issuance of a certificate of registration, a written authorization to act as a lobbyist. The authorization must be signed by the official of the corporation, limited liability company, association, group, or organization employing the lobbyist and may be filed by facsimile transmission.
  - e. The secretary of state shall charge a fee of twenty-five dollars for registering each lobbyist and the first person represented by the lobbyist and an additional fee of fifteen dollars for each subsequent person represented by the lobbyist.
2. Each lobbyist shall file, on or before August first following the expiration of the registration period, with the secretary of state a detailed report. The report must include a statement as to each expenditure, if any, of sixty dollars or more expended on any single occasion on any individual, including the spouse or other family member of a member of the legislative assembly or the governor, in carrying out the lobbyist's work or include a statement that no reportable expenditures were made during the reporting period. The statement of each expenditure must include a description of the nature of the expenditure, the amount of the expenditure, the date of the expenditure, and the name of the recipient of the expenditure. A state official or agency may not require reporting of lobbyist expenditures other than is required under this subsection. The secretary of state shall provide a prescribed form for reporting under this chapter. The secretary of state shall charge and collect fees for late filing of the detailed expenditure report as follows:
    - a. Within sixty days after the date provided in this subsection for filing the detailed expenditure report, twenty-five dollars; and
    - b. Thereafter, fifty dollars.
  3. If a lobbyist fails to file a detailed expenditure report and pay any late fee by October first, the lobbyist's registration is automatically revoked. The lobbyist's registration may be reinstated if the lobbyist thereafter files the detailed expenditure report and pays any outstanding late fee.
  4. All information required to be filed under this section with the secretary of state and that previously filed must be compiled by the secretary of state within forty days after the close of the period for which the information is filed and the files must be open and accessible for public inspection during the normal working hours.

**54-05.1-04. Powers of secretary of state - Granting and revoking of certificates - Referrals and reports to the attorney general.**

1. The secretary of state shall:
  - a. Grant a certificate of registration and design and furnish a distinctive lobbyist identification badge to any individual registering under section 54-05.1-03 who supplies the required information.
  - b. Revoke the certificate of registration of any individual who has been convicted of violating any provision of this chapter.
  - c. Refer on the secretary of state's own motion or on the verified complaint of any other person, to the attorney general for investigation, the activities of any individual who the secretary of state has reason to believe has been acting as a lobbyist and who may be in violation of this chapter.
  - d. Make available upon request of any citizen expenditures by categories reported by registered lobbyists to have been expended on each individual in carrying out that registrant's work.
  - e. Supply a current list of registered lobbyists for each legislator upon request.
2. The secretary of state may revoke the certificate of registration issued under this chapter for failure to file the reports required by this chapter when due, but no certificate may be revoked if, before the last day for filing the reports, the secretary of state has been informed in writing of extenuating circumstances justifying the failure.



3. The secretary of state shall compile and make available to the public a report of the total amount of expenditures reported by registrants.
4. The secretary of state may establish procedures for registration of lobbyists and filing of lobbyist expenditure reports through the internet or other electronic means, and may make lobbyist expenditure reports available on the secretary of state's internet website.

**54-05.1-05. Invitations and gifts to legislators.**

1. When any lobbyist invites a legislator to attend a function sponsored in whole or in part by the lobbyist or the principal, the lobbyist shall, upon the request of the legislator, supply the legislator with the true or estimated cost of the gratuity and allow the legislator to attend the function and pay the legislator's own share of the expenses.
2. When any lobbyist offers a gift of a non-information-bearing nature to a legislator, the lobbyist shall, upon the request of the legislator, supply the legislator with the true or estimated cost of the gratuity and allow the legislator to pay the cost of and receive the gift.

**54-05.1-06. Unlawful means to influence legislative assembly.**

In addition to the violation of any other provision of this chapter, it is unlawful for any lobbyist or for any other person:

1. To directly or indirectly give or agree to give any money, property, or valuable thing, or any security therefor, to any person for that person's service or the service of any other person in procuring the passage or defeat of any measure before the legislative assembly or either house thereof, or before any committee thereof, upon the contingency or condition that any measure will be passed or defeated.
2. To directly or indirectly receive or agree to receive any such money, property, thing of value, or security for such service, upon any such contingency or condition, as set forth in the preceding subsection.
3. To attempt to influence any member of the legislative assembly without first making known to such member the real and true interest the person has in such measure, either personally or as agent or attorney.

**54-05.1-07. Penalty.**

Any person who violates any provisions of this chapter is guilty of a class B misdemeanor except that a violation of section 54-05.1-02 or 54-05.1-03 is an infraction. Whether a person is subjected to criminal prosecution under this section, and in addition to the registration fee that may be assessed when the person submits the registration to the secretary of state, the person may be assessed a civil penalty by the secretary of state, following written notice to the person of an intent to assess the penalty, in an amount not to exceed two times the amount set forth in subdivision e of subsection 1 of section 54-05.1-03 which is chargeable to a lobbyist. Any civil penalty must be assessed and collected before a person is issued a certificate of registration. The assessment of a civil penalty may be appealed to the district court of the person's county of residence or Burleigh County, but only on the basis that the secretary of state's administrative determination that the person acted as a lobbyist when not registered as a lobbyist was clearly erroneous.

January 26, 2017

House Government and Veterans Affairs

HB 1298

Rep. Kasper, Chair

Attachment 2  
1298  
1-26-17  
P. 1

For the record, I am Blake Crosby, Executive Director of the North Dakota League of Cities, representing the 357 incorporated cities across the state. Approximately 77% of the population of North Dakota lives in those cities.

I am here in opposition to HB 1298. If you believe there is too much government regulation, then this proposed regulation is not needed. How a political subdivision collects revenue going into, and expends funds from, their general fund is a local government decision. If the citizens object they have the ballot box as a tool of change.

Having additional persons helping the League stay in communication with legislators and other elected officials is very beneficial for all the cities in North Dakota. It is important that we have public officials listening to the public. All of you are acutely aware of the pressure that exists over 80 days and how quickly things change and move. We all work together to stay informed on the many moving pieces.

There are no full-time elected city officials in North Dakota...they all have other jobs. There are currently only 5 cities that have employed legal counsel to assist them during the legislative process. All those persons are attorneys with legal experience the city deems necessary and valuable. Cities may have unique legal issues and specific legislative needs that require specialized legal advice. Specialized advice that the League can't provide.

To further illustrate the point that cities need specialized attorneys to help them understand the potential effects of bills that are passed during the legislative session, I would remind you that the Legislature employs 7 full-time attorneys to assist legislators understand existing laws and preparing bill drafts and amendments.



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House Government and Veterans Affairs

HB 1298

Rep. Kasper, Chair

Hiring a legal advisor is much more cost effective than moving a city employee down here for four months and paying room, board, travel back and forth on the weekends and other expenses. Not to mention the costs that would be incurred during the interim.

There is a distinct possibility this bill could apply to not only the political subdivisions mentioned but other professional organizations. When reading page 3, line 16, which states "Except as specifically permitted by law, a lobbyist may not receive public funds from a political subdivision for the performance of the activities described in subsection 1", which describes lobbying, this language appears to go farther than just the county, city, and townships who are specifically cited in this bill. It seems to have the potential to affect any association that receives money from a political subdivision and performs lobbying work.

I respectfully request a DO NOT PASS on HB 1298.

THANK YOU FOR YOUR TIME AND CONSIDERATION. I will try to answer any questions.

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**ND House Government and Veterans Affairs Committee**

**Hearing on HB 1298**

**Testimony of Ms. Deborah Birgen  
Missouri River Energy Services  
January 26, 2017**

Good morning, Chairman Kasper, and Members of the House Government and Veterans Affairs Committee. My name is Deb Birgen. I am the Director of Legislative and Government Relations for Missouri River Energy Services (MRES). Missouri River is a municipal power agency that provides wholesale electricity to municipal utilities in four states, including six Member communities in this state: Cavalier, Hillsboro, Lakota, Northwood, Riverdale, and Valley City. MRES appears before you today to voice opposition to HB 1298.

As a municipal power agency, MRES was created under Iowa law as an Iowa Code Chapter 28E entity, and is a political subdivision. MRES supplies electricity, transmission service, and other energy services to 60 municipal electric utility Member communities in 4 states, North Dakota, Iowa, Minnesota and South Dakota. We own generation, transmission, and other infrastructure in the area that supports the regional electric systems. MRES is also politically active in all four of our Members' states, and at the federal level. For over 50 years, the MRES tradition of understanding the laws and rules that affect our organization and the Members who created us, has ensured that lawmakers understand the important role of Public Power to the consumers in the region. Given the geographic span of our area, professional lobbyists are essential to keep us informed and to represent us before state legislatures, which often meet in session during the same January-April or May time frame.

In my fifteen years at MRES, I have seen countless bills introduced by state legislatures (and Congress) that had an effect – sometimes positive, sometimes negative – on MRES, or the



operation of municipal utilities of our Member cities, or both. Based on our experience, MRES has concerns about the potential impact of HB 1298 which prohibits lobbyists from accepting public funds from a political subdivision.

This bill creates an **unlevel playing field** to the disadvantage of political subdivisions. Barring cities, counties, and other political subdivisions from paying lobbyists limits the ability of public entities to have a voice in the public process, while allowing corporate interests and non-governmental organizations to pour money into lobbying unchecked. Matters relating to the electric industry can be highly complex, and consumer-owned utilities must be allowed a voice in matters that will impact not only the way they do business, but the costs that citizens and ratepayers will bear. Several recent events illustrate this point starkly.

FIRST: Minnesota's Next Generation Energy Act (NGEA). In 2007, the state of Minnesota introduced the NGEA which, among other things, banned imports of coal-fired power from North Dakota (and other states), a clear violation of the federal Constitution. MRES lobbyists raised this and other issues (and offered possible amendments to eliminate the conflicts) with Minnesota lawmakers, and those in neighboring states. Officials from other states (including North Dakota) joined in the efforts to stop passage of the bill. Although it did pass in 2007, lobbying on the negative impact of the NGEA continued, and the Minnesota General Assembly eventually repealed it in 2011 (only to have it vetoed by Governor Dayton).

If a statutory ban had prevented MRES and its Members from paying lobbyists to monitor and advocate on the NGEA when we cannot be physically present, then groups like the Union of Concerned Scientists, the Sierra Club, Fresh Energy, and the Minnesota Clean Energy Alliance would have been able to pay their lobbyists hundreds of thousands of dollars to advance their extreme agendas (sometimes from the comfort of their offices thousands of miles away) without opposition. Any law that prohibits lobbyists from accepting payment for services from

political subdivisions like MRES and its Member cities – and perhaps even officials from neighboring states – significantly limits the ability of local government to provide lawmakers objective information, let alone advocate, on the legal and practical impact of the proposed bill. In the case of the NGEA, it would have silenced local government and given special interests free reign to peddle their influence. [Information provided by paid lobbyists helped provide valuable information in determining whether to sue over the NGEA, and provided insight that influenced the litigation that was ultimately successful.] The passage of HB 1298 will give an **unfair advantage** to well-healed, well-funded special interest groups and private corporations to maintain access to lawmakers and other elected officials in Bismarck through paid lobbyists. And they will be able to do so with the comfort of knowing that local government – the government closest to the citizens, consumers, and taxpayers – will have little chance to interrupt their agendas and provide another point of view at the Capitol because lobbyists cannot accept payment from them.

SECOND: Political subdivisions operate in a transparent way, but others do not. In terms of leveling the playing field with financial restrictions on payments to lobbyists, it is important to understand that the balance is already tipped in favor of private businesses and non-governmental special interests because everything they do can be kept secret. Political subdivisions like cities and counties are subject to open meetings and public records laws. Any materials given to legislators by publically-funded lobbyists are open to the public, but special interest groups like Defenders of the Earth, the ACLU, NRDC, and others, are not subject to such transparency. Yet, this Legislative body is considering quieting the municipal voice – which advocates for its citizens (who govern the city) in favor of hearing from out of state interest groups. This bill would create yet another advantage for other interest groups, to the disadvantage of local governments and the citizens they serve.

THIRD: Associations will be barred from collectively lobbying for public entities. HB 1298 prohibits lobbyists from accepting funds from any political subdivision. That means a lobbyist cannot accept funds from an association of political subdivisions such as the North Dakota League of Cities or the Association of Counties – because the membership dues are paid from “public funds.” The result is there will be no public power or public utility voice at the Capitol advocating for North Dakota municipal rate payers. Whether the matter affects infrastructure costs for water, sewer, electricity, or roads, ordinary citizens do not have the time or expertise to monitor the legislative sessions in North Dakota or surrounding states to identify measures that will raise their monthly bills, property taxes, or affect the level of service their local governmental entities provide. They rely on experts like MRES and the NDLC to do that for them. If HB 1298 passes, it will effectively prohibit local political subdivisions from monitoring, informing, or advocating on complicated utility matters that affect their citizens and the taxpaying public. Individual citizens will be on their own to understand complex issues and navigate the complicated legislative process. At the same time, private businesses that may have an economic interest in, for example, building new wastewater treatment plants, or shifting costs to municipal utilities to eliminate the competitive, cost-based rates of municipal utilities, will gain an upper hand. Those private business in the same or similar industries will be able to devote unlimited private funds to hire lobbyists to promote their position at the expense of political subdivisions and the North Dakotans they serve.

In conclusion, I would request that this committee give HB 1298 a Do Not Pass recommendation.



## HB 1298 -- Lobbyists

## TESTIMONY OF ERIK R. JOHNSON, FARGO CITY ATTORNEY

## to the House Government and Veterans' Affairs Committee

**--Our City has a need.** One way that my office has been able to meet the "legal needs" of our city in a cost-effective way during my tenure with the city of Fargo (31+ years) has been by keeping the full-time legal staff at a baseline level to provide the day-to-day legal services but we cannot be legal experts in every field. We are generalists and when we need legal experts, we hire specialists. We use specialists—experts--in civil litigation, public finance (bond counsel), First Amendment and constitutional law (i.e. signs, Ten Commandments monument) and Federal Communications Commission law (i.e. cell phones, cable television), environmental law and water supply law. By hiring expert lawyers—but only when they are needed—our City is able to obtain legal advice from experts and we are able to control the cost quite effectively. We believe this to be a very effective and very efficient model for providing legal services in an affordable manner. Our City's use of a lawyer-lobbyist since the 2009 Legislative Session has been another example of hiring a legal specialist--a specialist who is being paid only during the time of need—the legislative session.

**--Advisor to the City.** Our lobbyist helps us to navigate the at-times choppy and unpredictable seas of the legislature. He is an important resource of knowledge of both substance and procedure. He is a lawyer and a former legislator and he is a trusted advisor to our City elected officials and staff. We rely upon his wisdom and experience in advising us as to how best to approach legislative concerns and problems. The federal government has lawyers, our state has lawyers, the N.D. Legislature has lawyers—the Legislative Council. So should, and does, the city of Fargo. When it comes to our City's interaction with our State Legislature, we have found it quite important to be able to rely upon our lobbyist—who is a trained and experienced lawyer—to assist us with a variety of tasks related to the legislative process.

**--Fargo's Lobbyist appointed as Special Assistant City Attorney.** The City Attorney appointed John Olson as a Special Assistant City Attorney in January 2009 to assist the City and the City Attorney in matters before the North Dakota legislature and that appointment was confirmed by the Fargo City Commission, all as provided by state statute. N.D.C.C. §40-20-02.

**--Bills and Amendments.** It has been important for our city to have our lobbyist there—present at the Capitol--when we've needed him. The City Attorney Office cannot provide the same level of attention from 200 miles away. What's more, we like to think that by helping our city, our lobbyist has also helped the State Legislature. More than once, as the session has wound down, it has been critical for our lobbyist to be there--in the trenches--to provide assistance in finding language that the legislators can agree upon.

**--Communication and Relationships more than Testimony.** Our city's elected officials and key staff members routinely provide testimony to the legislature. We think it is helpful to provide



these "subject matter experts" for the Legislature who frequently can explain the impacts of Legislation, proposed and existing, upon City government and our residents. Our lobbyist has never been used as a replacement for the regular presence of city elected officials and staff members at the Capitol; however, our lobbyist does help us communicate with the state legislature and other elected officials where needed. The business of legislation is a relationship that benefits both our City and the legislature for our lobbyist to be well-known in the legislature—that he is a familiar face—and that he develop and maintain a relationship with legislators. We hope that our lobbyist helps us keep our City's relationship with legislators open, honest and healthy.

**--Efficient use of Public Funds and the alternative.** Our city currently spends a flat \$30,000 for lobbying services for the legislative session—a cost that would nearly double if we used an alternative means for those services. Our lobbyist lives in the Bismarck area, so there is no lodging charge, no meals charge and no expense for travel to the Capitol. Elimination of the current lobbying relationship will not eliminate the need for good advice and counsel for the City. We may need to send someone from Fargo to be present and available during the legislative session. If so, we would estimate the cost to be at least \$57,673—nearly double what we are currently paying. Meals, lodging and per diem meals expense alone would be over \$8500 for a Fargo city employee to travel to the Capitol and stay in hotels to cover the Legislative Session. What's more, added expense is less an issue than is the practical "hiring" concerns. A lobbyist must be trained in law and experienced with the legislature and the legislative process—preferably the North Dakota legislature and legislative process. If we could not have a contracted lobbyist, our city would need to create a full-time Assistant City Attorney position. We would have to identify a work-load for that Assistant City Attorney during the other 20 months of the biennial cycle when the Legislature is not in session. Since "legislative counseling" is a specialty in the practice of law, we are concerned that we would not readily find applicants that (a) have the training and experience needed and (b) are willing to work for a single client whose need for "legislative counsel" services is essentially limited to four out of 24 months and are interested and willing to do other city work the other 20 months. While it may be possible to find a good fit, this would not be an "easy hire". Again, we find the use of specialists to be effective and efficient. The existing lobbying law, without change, allows our existing model to continue.

**REQUESTED ACTION:**

We respectfully suggest a "do not pass" recommendation from the House Government and Veterans' Affairs Committee.

Erik R. Johnson  
City Attorney -- Fargo  
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Fargo, ND 58102  
O: 701-280-1901  
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[ejohnson@lawfargo.com](mailto:ejohnson@lawfargo.com)

Re: HB 1298  
Attachment 5  
1-26-17  
P.1

# Limitations on Public Funds for Lobbying

Updated February 2015

Ten states, **Alaska, Connecticut, Florida, Illinois, Louisiana, North Carolina, South Carolina, Texas, Utah and Virginia**, prohibit state agencies from using public funds to retain a lobbyist.

- **Alaska** has this prohibition for 13 state agencies that are listed in the statute;
- **Connecticut** includes state agencies and 9 quasi-public agencies in its prohibition;
- **Florida** allows full-time employees of the executive branch and universities to register as a lobbyist and represent their employer; however, these entities may not retain a lobbyist to represent them before the legislative or executive branch.
- In **Illinois**, registered lobbyists cannot accept compensation from agencies for lobbying on a legislative action. The law provides an exception for full-time staff who receive a portion of their salary in order to lobby an executive, legislative, or administrative action or for those who are contractually retained by certain agencies.
- **Louisiana's** law prohibits an entity of state government or an employee from using state funds to lobby any matter being considered by the legislature. In particular, it includes a ban on contract lobbyists, though the law is not specific. State employees may give factual information.
- **North Carolina** allows agencies to designate two employees as liaisons to lobby;
- **South Carolina's** ban is by executive order and applies to 13 agencies in the Governor's cabinet;
- In **Texas**, a state agency may not use state funds to hire anyone who is required by law to register as a lobbyist.
- **Utah** bans agencies from using public funds to pay contract lobbyists.
- **Virginia's** law prohibits officers, boards, institutions, or agencies from employing lobbying for compensation.

Other restrictions on using state funds to lobby:

- In **Hawaii**, individuals and organizations that receive grants may not use state funds for lobbying activities;
- In **Iowa**, a state agency may not use public funds for a paid ad or public service announcement 30 days prior to or during a legislative session to encourage passage of a bill. Additionally, many senior state executive and legislative employees and public officials cannot lobby, unless they are designated to represent the official or office;
- **New Hampshire** prohibits a recipient of a grant or appropriation from using state funds to lobby or influence legislation. If the recipient wants to lobby, funds must be segregated from the state money;
- In **Washington**, lobbying with state funds is limited to providing information, which includes advocating an agency's official position.

No state bans the executive branch or other agencies from actually providing information on a bill or information in response to a request.

This table is intended to provide general information and does not necessarily address all aspects of this topic. Because the facts of each situation may need to be supplemented by consulting legal advisors. It reflects in summary form statutes in effect as of 12/31/11 or statutes enacted shortly thereafter.

AL | AK | AR | AZ | CA | CT | CO | DE | DC | FL | GA | GU | HI | ID | IL | IN | IA | KS | KY | LA | ME | MD | MA | MI | MN | MS | MO | NH | NJ | NM | NY | NC | ND | OH | OK | OR | PA | PR | RI | SC | SD | TN | TX | UT | VA | VT | WA | WV | WI | WY

STATES	TITLE
Alabama	None found.
Alaska	<p>Sec. 44.99.030 Lobbying contracts prohibited. (a) Notwithstanding other provisions of law, the following entities may not contract with or receive money or other thing of value to lobby the state, a municipality of the state, or an agency of the state or municipality:</p> <p>(1) Alaska Aerospace Development Corporation; (2) Alaska Commercial Fishing and Agriculture Bank; (3) Alaska Energy Authority; (4) Alaska Finance Corporation; (5) Alaska Industrial Development and Export Authority; (6) Alaska Medical Facility Authority; (7) Alaska Mental Health Authority; (8) Alaska Municipal Bond Authority; (9) Alaska Permanent Fund Corporation; (10) Alaska Railroad Corporation; (11) Alaska Science and Technology Foundation; (12) Alaska Seafood Marketing Institute; (13) Alaska Student Loan Corporation</p> <p>(b) In this section, (1) "lobby a municipality or an agency of a municipality" means to engage in an activity for the purpose of influencing legislative or administrative action if the activity is substantially the same as activity that would have required registration under AS 24.45.121 if the purpose of influencing state legislative or administrative action; (2) "lobby the state or an agency of the state" means to engage in an activity if registration is required under AS 24.45.121.</p>
Arizona	<p>15-1633.</p> <p>A. A person acting on behalf of a university or a person who aids another person acting on behalf of a university shall not spend or use public funds including the use or expenditure of monies, accounts, credit, facilities, vehicles, postage, telecommunications, computer hardware and personnel, equipment, materials, buildings or any other thing of value of the university for the purpose of influencing the outcomes of a legislative or administrative action or to advocate support for or opposition to pending or proposed legislation. Notwithstanding this section, a university may distribute informational pamphlets proposed bond election as provided in section 35-454 if those informational pamphlets present factual information in a neutral manner and do not preclude any of the following:</p> <ol style="list-style-type: none"> <li>1. A university from reporting on official actions of the university or the Arizona board of regents.</li> <li>2. A registered lobbyist from advocating on behalf of the university or the Arizona board of regents.</li> </ol>



3. An employee of a university using personal time and resources from influencing the outcomes of elections or from advocating supporting or proposed legislation if the employee does not use university personnel, equipment, materials, buildings or other resources
4. Any university employee from providing classroom instruction on matters relating to politics, elections, laws, ballot measures, candidates and pending or proposed legislation.

5. The use of university resources, including facilities and equipment, for government-sponsored forums or debates if the sponsor of the events are purely informational and provide an equal opportunity to all viewpoints. The rental and use of a university facility by a private entity may lawfully attempt to influence the outcome of an election is permitted if it does not occur at the same time and place as a government-sponsored event or debate.

B. Employees of a university may not use the authority of their positions to influence the vote or political activities of any subordinate employee.

C. This section does not prohibit universities from permitting student political organizations of political parties, including those that are organized under sections 16-801, 16-802 and 16-803, to conduct lawful meetings in university buildings or on university grounds, except as prescribed in this section. Each student political organization that is allowed to conduct lawful meetings on university property shall have equal access as any other political organization that is allowed to conduct lawful meetings on university property.

D. This section shall not be construed as denying the civil and political liberties of any person as guaranteed by the United States and the Constitution of the State of Arizona.

E. Except as provided in subsection F of this section, universities under the jurisdiction of the Arizona board of regents may not:

1. Provide publicly funded programs, scholarships or courses if the purpose of the program, scholarship or course is to advocate for a specific public policy.
2. Allow publicly funded organizations, institutes or centers to operate on the campus of the university or on behalf of or in association with the purpose of the organization, institute or center is to advocate for a specified public policy.

F. Subsection E of this section does not apply to:

1. A registered lobbyist who advocates on behalf of the university or the Arizona board of regents and other employees assisting such official capacity.
2. Any university employee who expresses a personal opinion on a political or policy issue, regardless of whether that opinion is expressed in the classroom.
3. Print or electronic media produced by students who are enrolled at a university.
4. A recognized student government, club or organization of students who are enrolled at a university.
5. Any university employee who is appointed to a government board, commission or advisory panel who provides expert testimony or policy.
6. The publication of reports or the hosting of seminars or guest speakers by the university that recommends public policy.
7. Researching, teaching and service activities of university employees that involve the study, discussion, intellectual exercise, debate or information that recommends public policy.
8. Any other type of advocacy that is allowed by law.

Arkansas

None found.

California

None found.

Colorado

None found.

Connecticut

Chapter 12: Sec. 1-101bb. Quasi-public agencies and state agencies prohibited from retaining lobbyists.

No quasi-public agency, as defined in section 1-120, or state agency may retain a lobbyist, as defined in section 1-91. The provisions of this section shall not be construed to prohibit a director, officer or employee of a quasi-public agency or state agency from lobbying, as defined in section 1-91, on behalf of a quasi-public agency or state agency.

Sec. 1-120. Definitions.

(1) "Quasi-public agency" means the Connecticut Development Authority, Connecticut Innovations, Incorporated, Connecticut Health Facilities Authority, Connecticut Higher Education Supplemental Loan Authority, Connecticut Housing Finance Authority, Connecticut Housing Resources Recovery Authority, Connecticut Hazardous Waste Management Service, Capital City Economic Development Corporation, Connecticut Lottery Corporation.

Delaware

None found.

District of Columbia

None found.

Florida

11.062. Use of state funds for lobbying prohibited; penalty.

1) No funds, exclusive of salaries, travel expenses, and per diem, appropriated to, or otherwise available for use by, any executive, judicial or department shall be used by any state employee or other person for lobbying purposes, which shall include the cost for publication and publication used in lobbying; other printing; media; advertising, including production costs; postage; entertainment; and telephone and



employee of any executive, judicial, or quasi-judicial department who violates the provisions of this section shall have deducted from his amount of state moneys spent in violation of this section.

(2)(a) A department of the executive branch, a state university, a community college, or a water management district may not use put lobbyist to represent it before the legislative or executive branch. However, full-time employees of a department of the executive branch, community college, or a water management district may register as lobbyists and represent that employer before the legislative or executive branch. As a full-time employee, a person may not accept any public funds from a department of the executive branch, a state university, a community college, or a water management district for lobbying.

(b) A department of the executive branch, a state university, a community college, or a water management district that violates this subsection is prohibited from lobbying the legislative or executive branch for a period not exceeding 2 years.

(c) This subsection shall not be construed to prohibit a department of the executive branch, a state university, a community college, or a water management district from retaining a lobbyist for purposes of representing the entity before the executive or legislative branch of the Federal Government. A person so retained is not subject to the prohibitions of this subsection.

(d) A person who accepts public funds as compensation for lobbying in violation of this subsection may be prohibited from registering with the legislative or executive branch for a period not exceeding 2 years....

Georgia

None found.

Guam

None found.

Hawaii

§42F-103. Standards for the award of grants and subsidies.

(a) Grants and subsidies shall be awarded only to individuals who, and organizations that:

(1) Are licensed or accredited, in accordance with federal, state, or county statutes, rules, or ordinances, to conduct the activities or purposes for which a grant or subsidy is awarded;

(2) Comply with all applicable federal and state laws prohibiting discrimination against any person on the basis of race, color, national origin, sex, age, sexual orientation, or disability;

(3) Agree not to use state funds for entertainment or lobbying activities; and

(4) Allow the state agency to which funds for the grant or subsidy were appropriated for expenditure, legislative committees and their staffs full access to their records, reports, files, and other related documents and information for purposes of monitoring, measuring the effectiveness of, and ensuring the proper expenditure of the grant or subsidy.

Idaho

None found.

Illinois

25 ILCS 170/11.3

Sec. 11.3. Compensation from a state agency. It is a violation of this Act for a person registered or required to be registered under this Act to accept or agree to accept compensation from a state agency for the purpose of lobbying legislative action. This section does not apply to a person who is a full-time employee of a state agency whose responsibility or authority includes, but is not limited to, the administration of legislative, or administrative action or (ii) to an individual who is contractually retained by a state agency that is not listed in section 5-1 of the Administrative Code of Illinois. For the purpose of this section, "State agency" is defined as in the Illinois State Auditing Act.

Indiana

None found.

Iowa

68B.5A Ban on certain lobbying activities.

1. A person who serves as a statewide elected official, the executive or administrative head of an agency of state government, the deputy executive or administrative head of an agency of state government, or a member of the general assembly shall not act as a lobbyist during the time he or she serves or is employed by the state unless the person is designated, by the agency in which the person serves or is employed, to represent the position of the agency.

2. The head of a major subunit of a department or independent state agency, full-time employee of an office of a statewide elected official, or full-time employee whose position involves a substantial exercise of administrative discretion or the expenditure of public funds, shall not, during the time he or she serves or is employed by the state, act as a lobbyist before the agency in which the person is employed or before state agencies or officials with whom the person has substantial or regular contact as part of the person's duties, unless the person is designated, by the agency in which the person serves or is employed, to represent the official position of the agency.

3. A state or legislative employee who is not subject to the requirements of subsection 2 shall not act as a lobbyist in relation to any particular case, proceeding, or application with respect to which the person is directly concerned and personally participates as part of the person's employment, by the agency in which the person is employed, to represent the official position of the agency.

4. A person who is subject to the requirements of subsection 1 shall not within two years after the termination of service or employment act as a lobbyist in relation to any particular case, proceeding, or application with respect to which the person was directly concerned and personally participated as part of the person's former duties.

5. The head of a major subunit of a department or independent state agency, full-time employee of an office of a statewide elected official, or full-time employee whose position involves a substantial exercise of administrative discretion or the expenditure of public funds, shall not, within two years after termination of employment, become a lobbyist before the agency in which the person was employed or before state agencies or officials with whom the person had substantial and regular contact as part of the person's former duties.

6. A state or legislative employee who is not subject to the requirements of subsection 2 shall not, within two years after termination of employment, act as a lobbyist in relation to any particular case, proceeding, or application with respect to which the person was directly concerned and personally participated as part of the person's former duties.

part of the person's employment.

7. This section shall not apply to a person who, within two years of leaving service or employment with the state, is elected to, appoint another office of the state, an office of a political subdivision of the state, or the federal government and appears or communicates on duties of that office or employment.

68B.8. Lobbying Activities by State Agencies.

A state agency of the executive branch of state government shall not use or permit the use of its public funds for a paid advertisement announcement thirty days prior to or during a legislative session for the purpose of encouraging the passage, defeat, approval, or mor being considered, or was considered during a previous legislative session, by the general assembly.

Kansas None found.

Kentucky None found.

Louisiana Part III Lobbying. 24:52. Persons to whom applicable; exceptions.

Unless the context clearly indicates otherwise, the provisions of this Part shall apply only to persons who are lobbyists as defined in R. provisions of this Part shall not apply to an elected official or any designees of the elected official, when such designee is a public emp elected official or public employee is acting in the performance of his or her official public duties.

24:56. Legislative Lobbying Regulatory Law. Prohibited conduct.

F. No state employee in his official capacity or on behalf of his employer shall lobby for or against any matter intended to have th before the legislature or any committee thereof. Nothing herein shall prohibit the dissemination of factual information relative to any of public meeting rooms or meeting facilities available to all citizens to lobby for or against any such matter.

Title 43. Public printing and advertisements. 43:31 Printed matter prohibitions; uniform standards; election material.

D. No branch, department, agency, official, employee, or other entity of state government shall expend funds of, administered by, or u branch, department, agency, employee, official, or other entity of state government to print material or otherwise to urge any electo any candidate or proposition on an election ballot nor shall such funds be used to lobby for or against any proposition or matter having considered by the legislature or any local governing authority. This provision shall not prevent the normal dissemination of factual i proposition on any election ballot or a proposition or matter having the effect of law being considered by the legislature or any local go

Maine None found.

Maryland None found.

Massachusetts None found.

Michigan None found.

Minnesota None found.

Mississippi None found.

Missouri None found.

Montana None found.

Nebraska None found.

Nevada None found.

New Hampshire Title 1. The State and Its Government, Chapter 15, Lobbyists Section 15:5 Prohibited Activities.

I. Except as provided in paragraph II, no recipient of a grant or appropriation of state funds may use the state funds to lobby or attempt legislation, participate in political activity, or

II. Any recipient of a grant or appropriation of state funds that wishes to engage in any of the activities prohibited in paragraph I, or cor entity engaged in these activities, shall segregate the state funds in such a manner that such funds are physically and financially sepa state funds that may be used for any of these purposes. Mere bookkeeping separation of the state funds from other moneys shall not

New Jersey None found.

New Mexico None found.

New York None found.

North Carolina § 120C-500. Liaison personnel.

(a) All agencies and constitutional officers of the State, including all boards, departments, divisions, constituent institutions of The Univ Carolina, community colleges, and other units of government in the executive branch shall designate liaison personnel to lobby for leg subsection shall not apply to units of local government, or a State agency or board with no staff.



(b) No State agency or constitutional officer of the State may contract with individuals who are not employed by the State to lobby legislative employees. This subsection shall not apply to counsel employed by any agency, board, department, or division authorized to employ counsel.

(c) No more than two individuals may be designated as liaison personnel for each agency and constitutional officers of the State, including departments, divisions, constituent institutions of The University of North Carolina, community colleges, and other units of government branch.

(d) The Chief Justice of the Supreme Court shall designate at least one, but no more than four, liaison personnel to lobby for legislative conferences, commissions, and other agencies established under Chapter 7A of the General Statutes. This subsection shall not apply under Article 60 of Chapter 7A of the General Statutes, so long as that office complies with subsection (a) of this section.

§ 120C-501. Applicability of Chapter on liaison personnel.

(a) Except as otherwise provided in this section, this Chapter shall not apply to liaison personnel.

(b) G.S. 120C-200 shall apply to liaison personnel. No registration fee shall be required for registration under this subsection.

(c) Liaison personnel designated under this Article shall file reports under G.S. 120C-402.

(d) G.S. 120C-303 shall apply to liaison personnel with respect to legislators and legislative employees.

(e) The Board of Governors of the University of North Carolina and its constituent institutions, or the liaison personnel designated by the constituent institutions, shall not give, for the purpose of lobbying, athletic tickets to any designated individual, except for those who are 138A-3(30)j. or those who are students and receive tickets on the same basis as other students.

North Dakota

None found.

Ohio

None found.

Oklahoma

§ 4254. State officers or state employees—Additional compensation for lobbying.

No state officer or state employee shall receive any additional compensation or reimbursement from any person for personally engaging in more than compensation or reimbursements provided by law for that member's job position.

Oregon

None found.

Pennsylvania

None found.

Puerto Rico

None found.

Rhode Island

None found.

South Carolina

Executive Order 2003-09

WHEREAS, some of South Carolina's state agencies have been known to spend state funds hiring independent contractors to lobby the General Assembly, creating an unnecessary burden on taxpayers and the State's budget, and producing an unacceptable cycle that fuels the growth of the General Assembly;

WHEREAS, agencies within the Governor's cabinet should lead the effort in prohibiting the practice of hiring independent contractors to lobby the General Assembly; and

WHEREAS, the Governor's cabinet consists of the Director of the Department of Alcohol and Other Drug Abuse Services, the Secretary of Commerce, the Director of the Department of Corrections, the Director of the Department of Health and Human Services, the Director of Insurance, the Director of the Department of Juvenile Justice, the Director of the Department of Labor, Licensing and Regulation, the Director of the Department of Parks, Recreation and Tourism, the Director of the Department of Probation, Parole, and Pardon Services, the Director of Revenue, the Director of the Department of Social Services, the Chief of the State Law Enforcement Division, and the Director of the State Safety.

NOW, THEREFORE, by virtue of the power and authority vested in me as Governor, pursuant to the Constitution and Statutes of the State of South Carolina, I hereby direct each member of the Governor's cabinet to end the practice of hiring or retaining independent contractors for the purpose of lobbying the General Assembly.

This Executive Order shall be effective immediately.

GIVEN UNDER MY HAND AND THE GREAT SEAL OF THE STATE OF SOUTH CAROLINA, THIS 18th DAY OF FEBRUARY 2003.

MARK Sanford  
Governor

South Dakota

None found.

Tennessee

None found.

Texas

Sec. 556.005. EMPLOYMENT OF LOBBYIST.

(a) A state agency may not use appropriated money to employ, as a regular full-time or part-time or contract employee, a person who is required by Chapter 305 to register as a lobbyist. Except for an institution of higher education as defined by Section 61.003, Education Code, a state agency may not use any money under its control to employ or contract with an individual who is required by Chapter 305 to register as a lobbyist.



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(b) A state agency may not use appropriated money to pay, on behalf of the agency or an officer or employee of the agency, member of the legislature or a lobbyist, an organization that pays part or all of the salary of a person who is required by Chapter 305 to register as a lobbyist. This subsection does not prohibit payment by a state agency of membership fees under Chapter 81.

(c) A state agency that violates Subsection (a) is subject to a reduction of amounts appropriated for administration by the General Assembly in the biennium following the biennium in which the violation occurs in an amount not to exceed \$100,000 for each violation.

(d) A state agency administering a statewide retirement plan may enter into a contract to receive assistance or advice regarding the plan or on other federal matters affecting the administration of the state agency or its programs if the contractor is not required by Chapter 305 to register as a lobbyist.

Sec. 556.0055. RESTRICTIONS ON LOBBYING EXPENDITURES.

(a) A political subdivision or private entity that receives state funds may not use the funds to pay:

(1) lobbying expenses incurred by the recipient of the funds;

(2) a person or entity that is required to register with the Texas Ethics Commission under Chapter 305;

(3) any partner, employee, employer, relative, contractor, consultant, or related entity of a person or entity described by Subdivision (2);

(4) a person or entity that has been hired to represent associations or other entities for the purpose of affecting the outcome of legislative action, including the passage of bills, resolutions, or other government policies.

(b) A political subdivision or private entity that violates Subsection (a) is not eligible to receive additional state funds.

Sec. 556.006. LEGISLATIVE LOBBYING.

(a) A state agency may not use appropriated money to attempt to influence the passage or defeat of a legislative measure.

(b) This section does not prohibit a state officer or employee from using state resources to provide public information or to provide information in response to a request.

Sec. 305.026. PROHIBITION ON USE OF CERTAIN PUBLIC FUNDS.

(a) Public funds available to a political subdivision may not be used to compensate or reimburse the expenses over \$50 of any person communicating directly with a member of the legislative branch to influence legislation, unless the person being compensated or reimbursed files a written statement with the commission that includes the person's compensation or reimbursement, and the name of the affected political subdivision.

(b) In this section, "political subdivision" includes: a municipality; a county; and a special district created under the constitution or laws of this state. This section does not apply to a person who is registered under this chapter, to a person who holds an elective or appointive public office, or to an employee of the affected political subdivision. This section does not prohibit a political subdivision from making an expenditure of public funds for an association with a minimum membership of at least 25 percent of eligible political subdivisions that contract with or employ a registrant communicating directly with a member of the legislative branch to influence legislation.

Utah

63J-1-210. Budgeting. Budgetary procedures act. Restrictions on agency expenditures of money -- Lobbyists.

(1) As used in this section:

(a) (i) "Agency" means:

(A) a department, commission, board, council, agency, institution, officer, corporation, fund, division, office, committee, authority, bureau, panel, or other administrative unit of the state; or

(B) a school, a school district, or a charter school.

(ii) "Agency" includes the legislative branch, the judicial branch, the Board of Regents, the board of trustees of each higher education institution, and any other institution of higher education.

(b) "Contract lobbyist" means a person who is not an employee of an agency who is hired as an independent contractor by the agency to influence legislative action.

(c) "Executive action" means action undertaken by the governor, including signing or vetoing legislation, and action undertaken by the executive branch of state government.

(d) "Legislative action" means action undertaken by the Utah Legislature or any part of it.

(2) An agency to which money is appropriated by the Legislature may not expend any money to pay a contract lobbyist.

(3) This section does not affect the provisions of Title 36, Chapter 11, Lobbyist Disclosure and Regulation Act.

Vermont

None found.

Virginia

§ 2.2-434. Employment of lobbyists prohibited; exceptions.

Employment of a lobbyist for compensation by an officer, board, institution or agency of the Commonwealth, is expressly prohibited; however, this section shall not apply to any individual who is a full-time or part-time employee of such office, board, department, institution or agency of the Commonwealth.

Washington

RCW 42.17A.635 Legislative activities of state agencies, other units of government, elected officials, employees.\*

(2) Unless authorized by subsection (3) of this section or otherwise expressly authorized by law, no public funds may be used directly for lobbying: PROVIDED, This does not prevent officers or employees of an agency from communicating with a member of the legislature or a lobbyist; or communicating to the legislature, through the proper official channels, requests for legislative action or appropriations which are necessary for the efficient conduct of the public business or actually made in the proper performance of their official duties: PROVIDED, This subsection does not apply to the legislative branch.

(3) Any agency, not otherwise expressly authorized by law, may expend public funds for lobbying, but such lobbying activity shall be limited to information or communicating on matters pertaining to official agency business to any elected official or officer or employee of any agency: PROVIDED, That public fund expended as a direct or indirect gift or campaign contribution to any elected official or officer or employee of any agency. For the purpose the term "gift" means a voluntary transfer of any thing of value without consideration of equal or greater value, but does not include information transferred for the sole purpose of informing the recipient about matters pertaining to official agency business. This section does not prohibit state publication which has been otherwise prohibited by law....

(5) Each state agency, county, city, town, municipal corporation, quasi-municipal corporation, or special purpose district which expends for lobbying shall file with the commission, except as exempted by (d) of this subsection, quarterly statements providing the following information just completed:

- (a) The name of the agency filing the statement;
- (b) The name, title, and job description and salary of each elected official, officer, or employee who lobbied, a general description of the lobbying, and the proportionate amount of time spent on the lobbying;
- (c) A listing of expenditures incurred by the agency for lobbying including but not limited to travel, consultant or other special contract brochures and other publications, the principal purpose of which is to influence legislation;
- (d) For purposes of this subsection the term "lobbying" does not include:
  - (i) Requests for appropriations by a state agency to the office of financial management pursuant to chapter 43.88 RCW nor require financial management to the legislature for appropriations other than its own agency budget requests;
  - (ii) Recommendations or reports to the legislature in response to a legislative request expressly requesting or directing a specific study or report by an agency on a particular subject;
  - (iii) Official reports including recommendations submitted to the legislature on an annual or biennial basis by a state agency as required;
  - (iv) Requests, recommendations, or other communication between or within state agencies or between or within local agencies;
  - (v) Any other lobbying to the extent that it includes:
    - (A) Telephone conversations or preparation of written correspondence;
    - (B) In-person lobbying on behalf of an agency of no more than four days or parts thereof during any three-month period by officers of the agency and in-person lobbying by any elected official of such agency on behalf of such agency or in connection with the powers, duties of such official: PROVIDED, That the total expenditures of nonpublic funds made in connection with such lobbying for or on behalf of any of the legislature or state elected officials or public officers or employees of the state of Washington do not exceed fifteen dollars for any one lobbyist: PROVIDED FURTHER, That the exemption under this subsection is in addition to the exemption provided in (A) of this subsection;
    - (C) Preparation or adoption of policy positions.

The statements shall be in the form and the manner prescribed by the commission and shall be filed within one month after the end of the reporting period.

(6) In lieu of reporting under subsection (5) of this section any county, city, town, municipal corporation, quasi municipal corporation, or special district may determine and so notify the public disclosure commission, that elected officials, officers, or employees who on behalf of the agency engage in lobbying reportable under subsection (5) of this section shall register and report such reportable lobbying in the same manner as required to register and report under RCW 42.17.150 and 42.17.170. Each such local agency shall report as a lobbyist employee. RCW 42.17.180.

(7) The provisions of this section do not relieve any elected official or officer or employee of an agency from complying with other provisions of law. If such elected official, officer, or employee is not otherwise exempted.

(8) The purpose of this section is to require each state agency and certain local agencies to report the identities of those persons who are compensated by the agency for lobbying, together with certain separately identifiable and measurable expenditures of an agency's funds for that purpose. The provisions shall be reasonably construed to accomplish that purpose and not to require any agency to report any of its general overhead cost or any cost only indirectly or incidentally to lobbying or which are equally attributable to or inseparable from nonlobbying activities of the agency.

The public disclosure commission may adopt rules clarifying and implementing this legislative interpretation and policy.

**\*Non-substantive changes were made in the 2010 session; they have not been codified.**

West Virginia	None found.
Wisconsin	None found.
Wyoming	None found.

#### NCSL Member Toolbox

##### Members Resources

- Get Involved With NCSL
- Jobs Clearinghouse
- Legislative Careers
- NCSL Staff Directories

##### Policy & Research Resources

- Bill Information Service
- Legislative Websites
- NCSL Bookstore
- State Legislatures Magazine

##### Meeting Resources

- Calendar
- Online Registration

##### Press Room

##### Denver

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