

SENATE BILL 233

IN THE SENATE

January 24, 1979

Introduced and referred to
Committee on State Adminis-
tration.

February 16, 1979

Committee recommend bill,
do not pass.

On motion, Senate reconsider
its action taken on Adverse
Committee report and order
printed and placed on second
reading. Motion failed.

1 *State* BILL NO. *233*
 2 INTRODUCED BY *Sen. Ross* *Jorgensen* *Blaylock*
 3 *Van Valkenburg* *Palmer*

4 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING STATEMENTS OF
 5 ANTICIPATED AND ACTUAL EXPENDITURES FROM EACH PERSON WHO
 6 EMPLOYS A LOBBYIST OR MAKES OTHER PAYMENTS TO INFLUENCE
 7 LEGISLATION; PROVIDING FOR THE AUDIT AND ENFORCEMENT OF
 8 REPORTING REQUIREMENTS; AMENDING SECTIONS 5-7-101 THROUGH
 9 5-7-103, 5-7-201, 5-7-207, 5-7-301, AND 5-7-304, MCA; AND
 10 REPEALING SECTIONS 5-7-205 AND 5-7-303, MCA."

11
 12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

13 Section 1. Section 5-7-101, MCA, is amended to read:
 14 "5-7-101. Purposes of chapter. The purposes of this
 15 chapter are to promote a high standard of ethics in the
 16 practice of lobbying; to prevent unfair and unethical
 17 lobbying practices; and to provide for the licensing of
 18 lobbyists and the suspension or revocation of the licenses,
 19 and to require disclosure of the amounts of money spent for
 20 lobbying."

21 Section 2. Section 5-7-102, MCA, is amended to read:

22 "5-7-102. Definitions. The following words and phrases
 23 ~~shall have the meanings respectively ascribed to them~~
 24 definitions apply in this chapter:

25 (1) "Lobbying" means the practice of promoting or

1 opposing the introduction or enactment of legislation before
 2 the legislature or the members thereof by any person other
 3 than a member of the legislature or a public official acting
 4 in his official capacity on request of a legislator.

5 (2) "Lobbyist" means any person who engages in the
 6 practice of lobbying for hire except in the manner
 7 authorized by 5-7-304 or any person who makes an expenditure
 8 to solicit others, either directly or by an advertising
 9 campaign, to communicate directly with a legislator for the
 10 purpose of influencing legislative action, but it does not
 11 include an individual acting solely on his own behalf who
 12 does not spend over \$1,000 for such purposes. Lobbying for
 13 hire ~~shall include~~ includes activities of any officers,
 14 agents, attorneys, or employees of any principal who are
 15 paid a regular salary or retained by such principal and
 16 whose duties include lobbying. When a person is reimbursed
 17 only for his personal living and travel expenses, which
 18 together do not exceed \$1,000 for a single year, he shall
 19 not be considered to be lobbying for hire. Any officers,
 20 agent, attorney, or employee of a principal who devotes less
 21 than a total of 40 hours each year to lobbying shall not be
 22 considered a lobbyist. Nothing in this section ~~shall be~~
 23 ~~construed to deprive~~ deprives any citizen not lobbying for
 24 hire of his constitutional right to communicate with members
 25 of the legislature.

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1 (3) "Unprofessional conduct" means:
 2 (a) a violation of any of the provisions of this
 3 chapter;
 4 (b) soliciting employment from any principal;
 5 (c) instigating the introduction of legislation for
 6 the purpose of obtaining employment in opposition thereto;
 7 (d) attempting to influence the vote of legislators on
 8 any measure pending or to be proposed by the promise of
 9 support or opposition at any future election, by any means
 10 other than argument on the merits thereof, or by making
 11 public any unsubstantiated charges of improper conduct on
 12 the part of any other lobbyist or of any legislator; or
 13 (e) engaging in practices which reflect discredit on
 14 the practice of lobbying or the legislature.
 15 ~~(4) "Person" means an individual, corporation,~~
 16 ~~association, firm, partnership, committee, club, or other~~
 17 ~~organization or group of persons.~~
 18 ~~(4)(5) "Principal" means:~~
 19 (a) any person ~~corporation or association~~ which who
 20 engages a lobbyist or other person ~~spends money in excess of~~
 21 ~~\$1,000~~ in connection with any legislation pending before the
 22 legislature or to be proposed affecting the pecuniary
 23 interest of such person ~~corporation or association~~; or
 24 (b) any board, department, commission, or other agency
 25 of the state, any county, or municipal corporation which

1 engages a lobbyist or other person ~~spends money in excess of~~
 2 ~~\$1,000~~ in connection with any legislation pending or to be
 3 proposed affecting the statutory powers, duties, or
 4 appropriation of such agency, county, or municipal
 5 corporation.
 6 ~~(5)(6) "Docket" means the register of licensed~~
 7 lobbyists maintained by the secretary of state pursuant to
 8 5-7-201.
 9 ~~(6)(7) "Pecuniary interest" includes without~~
 10 limitation any legislation which creates, alters, or repeals
 11 any statutory charge by way of tax, license fee,
 12 registration fee, or otherwise; which creates, alters, or
 13 repeals any statutory privilege, power, restriction, or
 14 obligation of any principal; or which creates, alters, or
 15 repeals the powers or duties of any court or governmental
 16 agency before which the principal does business.
 17 ~~(8) "Legislative action" means the drafting,~~
 18 ~~introduction, consideration, amendment, enactment, or defeat~~
 19 ~~of a bill, resolution, report, nomination, or other matter~~
 20 ~~by either house of the Montana legislature or a committee,~~
 21 ~~select committee, interim committee, or member of the~~
 22 ~~Montana legislature.~~
 23 ~~(9) "Payment" means distribution, transfer, loan,~~
 24 ~~advance, deposit, gift, or other rendering of money,~~
 25 ~~property, or anything of value.~~

1 (10) "Payment to influence legislative action" means
 2 any of the following types of payment:

3 (a) direct or indirect payment to a lobbyist by a
 4 principal, as salary, fee, or compensation for expenses or
 5 for any other purpose;

6 (b) payment in support or assistance of a lobbyist or
 7 his activities, including but not limited to the direct
 8 payment of expenses incurred at the request or suggestion of
 9 the lobbyist."

10 Section 3. Section 5-7-103, MCA, is amended to read:

11 "5-7-103. Licenses -- fees -- eligibility. (1) Any
 12 adult of good moral character who is a citizen of the United
 13 States and who is otherwise qualified under this chapter may
 14 be licensed as a lobbyist. The secretary of state shall
 15 provide a license application form. The application form may
 16 be obtained in the office of the secretary of state and
 17 filed therein. Upon approval of the application by the
 18 secretary of state and payment of the license fee of \$10 to
 19 the secretary of state, a license shall be issued which
 20 entitles the licensee to practice lobbying on behalf of one
 21 or more principals. Each license shall expire on December
 22 31 of each ~~odd-numbered~~ even-numbered year.

23 (2) No application may be disapproved without
 24 affording the applicant a hearing. The hearing shall be held
 25 and the decision entered within 10 days of the date of the

1 filing of the application.

2 (3) The license fees collected by the secretary of
 3 state under this chapter shall be deposited by him in the
 4 state treasury."

5 Section 4. Section 5-7-201, MCA, is amended to read:

6 "5-7-201. Docket -- contents. The secretary of state
 7 shall prepare and keep a docket in which shall be entered
 8 the name and business address of each lobbyist, the name and
 9 business address of his principal, and the subject or
 10 subjects of legislation to which the employment relates or a
 11 statement that the employment relates to all matters in
 12 which the principal has an interest. The docket entry for
 13 each principal shall also indicate the principal's report of
 14 total anticipated payments to influence legislative action."

15 Section 5. Section 5-7-207, MCA, is amended to read:

16 "5-7-207. Report to legislature. Beginning with the
 17 first week Tuesday following the beginning of any regular or
 18 special session of the legislature and on every the first
 19 Tuesday thereafter--for-the-duration-of-such-session of every
 20 month thereafter during which the legislature is in session,
 21 the secretary of state shall from his records report to each
 22 member of each house of the legislature the names of
 23 lobbyists registered under this chapter, not previously
 24 reported, the names of the persons whom they represent as
 25 ~~such---~~ lobbyist lobbyists, and the subject subjects of

1 legislation in which they are interested."

2 Section 6. Section 5-7-301, MCA, is amended to read:

3 "5-7-301. Prohibition of practice without license and
4 registration. ~~(1)~~ No person may practice as a lobbyist
5 unless he has been licensed under 5-7-103 and unless he is
6 listed on the docket as employed in respect to such matters
7 as he is promoting or opposing.

8 ~~(2) No principal may directly or indirectly authorize
9 or permit any lobbyist employed by him to practice lobbying
10 in respect to any legislation affecting the pecuniary
11 interest of the principal until the lobbyist is duly
12 licensed and the name of the lobbyist is duly entered on the
13 docket."~~

14 Section 7. Section 5-7-304, MCA, is amended to read:

15 "5-7-304. Exemption from license and registration
16 requirement. Any person who limits his lobbying solely to
17 appearances before legislative committees of either house
18 without receiving a fee or compensation for his efforts and
19 registers his appearance on the records of such committees
20 in writing shall not be required to be licensed as a
21 lobbyist, pay a license fee, or register with the secretary
22 of state."

23 **NEW SECTION.** Section 8. Principals to file
24 accounting. A principal subject to this chapter shall file
25 an accounting of actual payments to influence legislative

1 action made during the month of January on or before
2 February 15 of that year and shall file an accounting of
3 such payments made during the entire calendar year on or
4 before February 15 of the following year. In a year in which
5 the legislature is in session, a principal shall file an
6 accounting of actual payments to influence legislative
7 action within 60 days following the adjournment of the
8 legislature, and if no further such payments are made after
9 that date, the principal need not file an accounting for
10 that calendar year. Each accounting filed under this section
11 shall:

12 (1) list all expenditures in each of the following
13 categories:

14 (a) original and derivative research done to support
15 an argument or presentation;

16 (b) the cost for publication and distribution of each
17 publication used in lobbying;

18 (c) other printing;

19 (d) news media;

20 (e) advertising, including production costs;

21 (f) postage;

22 (g) travel;

23 (h) salaries and fees, including allowances, rewards,
24 and contingency fees;

25 (i) entertainment; and

- 1 (j) telephone and telegraph;
- 2 (2) itemize each payment exceeding \$100, identifying
- 3 the payee and the beneficiary if the beneficiary of the
- 4 expenditure was one or more legislators or public officers,
- 5 except that in regard to a dinner or other function to which
- 6 all legislators, all senators, all representatives, or all
- 7 members of an identifiable group have been invited, the
- 8 beneficiary may be listed as all members of that group
- 9 without listing separately each person who attended;
- 10 (3) list each contribution and membership fee of \$500
- 11 or more paid to the principal, regardless of whether it was
- 12 paid solely for the purpose of lobbying, with the full name
- 13 and complete address of each payer and the issue area, if
- 14 any, for which such payment was earmarked;
- 15 (4) list each political contribution, including a
- 16 service or anything of value, paid to any candidate for
- 17 elective public office, to any committee established to
- 18 support or oppose a candidate for elective public office, or
- 19 to any committee to support or oppose any initiative,
- 20 referendum, or other ballot issue, whether such contribution
- 21 is made by the principal, any officer or employee of the
- 22 principal, or any lobbyist who received compensation or
- 23 reimbursement for expenses from the principal; and
- 24 (5) list each bill which the principal or his agents
- 25 exerted a major effort to support, oppose, or modify,

- 1 together with a statement of the principal's position for or
- 2 against such action.
- 3 NEW SECTION. Section 9. Principals required to
- 4 register -- penalty for failure to register or for false
- 5 statement. A person may not employ a lobbyist or make
- 6 payments to influence legislative action unless he files the
- 7 reports required under this chapter. A principal who fails
- 8 to file a required report is subject to the penalty provided
- 9 in 5-7-305. A principal who knowingly files a false,
- 10 erroneous, or incomplete statement commits the offense of
- 11 unsworn falsification to authorities.
- 12 NEW SECTION. Section 10. Audit of final accounting
- 13 statements. The secretary of state may audit the accounting
- 14 filed under [section 8] and shall investigate any
- 15 irregularities and report any apparent violations of this
- 16 chapter to the attorney having authority to prosecute.
- 17 NEW SECTION. Section 11. Secretary of state to make
- 18 rules for allocation of expenses. The secretary of state
- 19 shall promulgate and publish rules necessary to carry out
- 20 the provisions of [this act] in conformance with the Montana
- 21 Administrative Procedure Act and, in particular, shall
- 22 provide rules necessary to allocate salary, expenses, and
- 23 any other payments between lobbying activities and other
- 24 activities not connected with lobbying for any person whose
- 25 activities are not solely limited to lobbying.

VB 230

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- 1 Section 12. Repealer. Sections 5-7-205 and 5-7-303,
- 2 MCA, are repealed.

-End-