

HOUE BILL 615

Introduced by Raney, et al.

2/08	Introduced
2/09	Referred to State Administration
2/17	Hearing
2/17	Tabled in Committee

INTRODUCED BY

HOUSE BILL NO. 615

A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THE DEFINITIONS OF "LOBBYING", "LOBBYING FOR HIRE", AND "PRINCIPAL"; CHANGING REPORTING DATES; REQUIRING LOBBYISTS TO FILE ACCOUNTINGS; REQUIRING REPORTS OF LOBBYING EXPENDITURES TO THE LEGISLATURE; AND AMENDING SECTIONS 5-7-102, 5-7-207, AND 5-7-208, MCA."

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

Section 1. Section 5-7-102, MCA, is amended to read:

"5-7-102. Definitions. The following definitions apply in this chapter:

{1}--"Individual"--means--a--human--being;

{2}--"Person"---means---an---individual;---corporation; association; firm; partnership; state or local government or subdivision--thereof;--or--other--organization--or--group--of persons;

{3}--"Public-official"--means--any--individual;--elected--or appointed;--acting--in--his--official--capacity--for--the--state government; but does not include those acting in a judicial or--quasi-judicial--capacity--or--performing--ministerial--acts;

{4}--"Lobbying"--includes:

{a}--the--practice--of---promoting---or---opposing---the

introduction---or---enactment---of--legislation--before--the legislature--or--the--members--thereof--by--any--person--other--than a--member--of--the--legislature--or--a--public--official--acting--in his--official--capacity;--and

{b}--the--practice--of--promoting--or--opposing--official action--by--any--public--official--in--the--event--the--person engaged--in--such--practice--expends--\$1,000--per--calendar--year--or more--exclusive--of--personal--travel--and--living--expenses;

{5}--(a)--"Lobbyist"--means--any--person--who--engages--in--the practice--of--lobbying--for--hire;

{b}--"Lobbyist"--does--not--include:

{i}--any--individual--citizen--acting--solely--on--his--own behalf;--or

{ii}--any--individual--working--for--the--same--principal--as--a licensed--lobbyist;--such--individual--having--no--personal contact--involving--lobbying--with--any--public--official--on behalf--of--his--principal;

{c}--Nothing--in--this--section--deprives--any--citizen--not lobbying--for--hire--of--the--constitutional--right--to--communicate with--public--officials;

{6}--"Lobbying--for--hire"--includes--activities--of--any officers;--agents;--attorneys;--or--employees--of--any--principal who--are--paid;--reimbursed;--or--retained--by--such--principal--and whose--duties--include--lobbying;--When--an--individual--is reimbursed--only--for--his--personal--living--and--travel--expenses;

1 which-together-do-not-exceed-\$1,000-per-calendar-year--that
 2 individual--shall-not-be-considered-to-be-lobbying-for-hire;
 3 {7}--"Unprofessional-conduct"--means:
 4 {a)--a-violation--of--any--of--the--provisions--of--this
 5 chapter;
 6 {b)--instigating--action--by-any-public-official-for-the
 7 purpose-of-obtaining-employment-in-opposition-thereto;
 8 {c)--attempting-to-influence-the-action-of-any-public
 9 official-on-any-measure-pending-or-to-be-proposed-by;
 10 {i)--promise-of-financial-support;-or
 11 {ii)--making--public---any-unsubstantiated--charges--of
 12 improper-conduct-on-the-part-of-any-other--lobbyist;-any
 13 principal;-or-any-legislator;
 14 {d)--attempting-to-knowingly-deceive-any-public-official
 15 with--regard-to-the-pertinent-facts-of-an-official-matter-or
 16 attempt-to-knowingly-misrepresent--pertinent--facts--of--an
 17 official-matter-to-any-public-official-;"
 18 {8}--"Principal"--means-any-person-who-makes-payments-in
 19 excess-of-\$1,000-per-calendar-year-to-engage-a-lobbyist;
 20 {9}--"Bucket"--means--the--register---and---reports---of
 21 lobbyists--and--principals--maintained--by--the-commissioner
 22 pursuant-to-5-7-2017;
 23 {10}--"Payment"--means--distribution;-transfer;-loan;
 24 advance;-deposit;-gift;-or--other-rendering-made-or-to-be
 25 made-of-money;-property;-or-anything-of-value;

1 {11}--"Payment-to-influence-official-action"--means-any-of
 2 the-following-types-of-payment:
 3 {a)--direct-or-indirect--payment--to--a--lobbyist--by--a
 4 principal;-as--salary;-fee;-compensation;-or-reimbursement
 5 for-expenses;-excluding-personal-living-expenses;
 6 {b)--payment-in-support-of-or-assistance-to--a--lobbyist
 7 or--lobbying--activities;-including;-but-not-limited-to;-the
 8 direct-payment--of--expenses--incurred--at--the--request--or
 9 suggestion-of-the-lobbyist;
 10 {12}(1) "Business" means:
 11 (a) any holding or interest whose fair market value is
 12 greater than \$1,000, in any corporation, partnership, sole
 13 proprietorship, firm, enterprise, franchise, association,
 14 self-employed individual, holding company, joint stock
 15 company, receivership, trust, or other entity or property
 16 held in anticipation of profit, but does not include
 17 nonprofit organizations; and
 18 (b) present or past employment from which benefits,
 19 including retirement allowances, are received.
 20 {13}(2) "Commissioner" means the commissioner of
 21 political practices.
 22 {14}--"Elected--official"--means-a-public-official-holding
 23 a-state-office--filled--by--a--statewide--vote--of--all--the
 24 electors--of--Montana-or-a-state-district-office;-including;
 25 but---not---limited---to---legislators;-public---service

~~commissioners,---and---district---court---judges,--The--term
"official-elect"--shall-also-apply-only-to-such-offices.~~

(3) "Docket" means the register and reports of
lobbyists and principals maintained by the commissioner
pursuant to 5-7-201.

(4) "Elected official" means a public official holding
a state office filled by a statewide vote of all the
electors of Montana or a state district office, including
but not limited to legislators, public service
commissioners, and district court judges. The term
"official-elect" also applies to such offices.

(5) "Individual" means a human being.

(6) "Lobbying" includes:

(a) the practice of promoting or opposing the
introduction or enactment of legislation that is before the
legislature or the members of the legislature, by a person
other than:

(i) a member of the legislature; or

(ii) a public official acting in his official capacity;
and

(b) the practice of promoting or opposing official
action by a public official.

(7) "Lobbying for hire" includes activities of the
officers, agents, attorneys, or employees of a principal who
are paid, reimbursed, or retained by the principal and whose

duties include lobbying. If an individual is reimbursed
only for his personal living and travel expenses, which
together are less than \$1,000 per calendar year, that
individual is not considered to be lobbying for hire.

(8) (a) "Lobbyist" means a person who engages in the
practice of lobbying for hire.

(b) The term does not include:

(i) an individual acting solely on his own behalf; or

(ii) an individual working for the same principal as a
licensed lobbyist if the individual has no personal contact
involving lobbying with any public official on behalf of his
principal.

(c) Nothing in this section deprives an individual not
lobbying for hire of the constitutional right to communicate
with public officials.

(9) "Payment" means distribution, transfer, loan,
advance, deposit, gift, or other rendering made or to be
made of money, property, or anything of value.

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

(a) direct or indirect payment to a lobbyist by a
principal, such as salary, fee, compensation, or
reimbursement for expenses, excluding personal living
expenses; or

(b) payment in support of or assistance to a lobbyist

1 or lobbying activities, including but not limited to the
 2 direct payment of expenses incurred at the request or
 3 suggestion of the lobbyist.

4 (11) "Person" means an individual, corporation,
 5 association, firm, partnership, state or local government or
 6 subdivision thereof, or other organization or group of
 7 persons.

8 (12) "Principal" means a person who employs a lobbyist.

9 (13) "Public official" means an individual, elected or
 10 appointed, acting in his official capacity for the state
 11 government. The term does not include those acting in a
 12 judicial or quasi-judicial capacity or performing
 13 ministerial acts.

14 (14) "Unprofessional conduct" means:

15 (a) violating any of the provisions of this chapter;

16 (b) instigating action by a public official for the
 17 purpose of obtaining employment;

18 (c) attempting to influence the action of a public
 19 official on any measure pending or to be proposed, by:

20 (i) promising of financial support; or

21 (ii) making public any unsubstantiated charges of
 22 improper conduct on the part of a lobbyist, principal, or
 23 legislator; or

24 (d) attempting to knowingly deceive any public official
 25 with regard to the pertinent facts of an official matter or

1 attempting to knowingly misrepresent pertinent facts of an
 2 official matter to a public official."

3 **Section 2.** Section 5-7-207, MCA, is amended to read:

4 **"5-7-207. Report to legislature. (1)** Beginning with the
 5 first Tuesday following the beginning of any regular or
 6 special session of the legislature and on the first Tuesday
 7 of every month thereafter during which the legislature is in
 8 session, the commissioner shall ~~from his records~~ report to
 9 each member of each house of the legislature the names of
 10 lobbyists registered under this chapter, not previously
 11 reported, the names of the principals whom they represent as
 12 lobbyists, and the subjects of legislation in which each
 13 principal is interested.

14 (2) At the end of the second month of any regular or
 15 special session of the legislature and thereafter at the end
 16 of each month during which the legislature is in session,
 17 the commissioner shall provide a summary report of all
 18 lobbyist expenditures filed with the commissioner for the
 19 preceding calendar month."

20 **Section 3.** Section 5-7-208, MCA, is amended to read:

21 **"5-7-208. ~~Principals~~ Lobbyists and principals to file**
 22 **accountings. (1)** A ~~principal~~ lobbyist subject to this
 23 chapter shall file with the commissioner an accounting of
 24 payments made for the purpose of lobbying.

25 **(2)** If such payments are made solely to influence

1 legislative action, such an accounting shall must be made no
 2 later than the 15th day of the month:

3 (a) ~~before--February--16th--of--any-year~~ following each
 4 calendar month the legislature is in session and ~~shall must~~
 5 include all payments made in ~~that-calendar-year-prior-to~~
 6 ~~February-1~~ the preceding calendar month;

7 (b) ~~--before-the-16th-day-of-the-calendar-month-following~~
 8 ~~any-calendar-month-in-which-the-principal--spent--\$5,000--or~~
 9 ~~more--and--shall--include-all-payments-made-during-the-prior~~
 10 ~~calendar-month;~~ and

11 (c) ~~--within-60-days~~ (b) following adjournment of such a
 12 legislative session and shall must include all payments made
 13 during--such-session, except as has previously been reported
 14 continue monthly until all payments for the purpose of
 15 lobbying have been reported.

16 (3) If such payments are made to influence any other
 17 official action by a public official ~~or--made--to--influence~~
 18 ~~such---other---action---and--legislative--action,--such, an~~
 19 accounting ~~shall must~~ be made:

20 (a) ~~before-February-16th~~ no later than January 31 of
 21 the calendar year following such the year payments were made
 22 and ~~shall must~~ include all payments made during the prior
 23 calendar year; and

24 (b) ~~before-the-16th~~ no later than the 15th day of the
 25 calendar month following any calendar month in which the

1 ~~principal--spent \$5,000 or more was spent for lobbying and~~
 2 ~~shall must~~ include all payments made during the prior
 3 calendar month.

4 (4) If no such payments are made during the reporting
 5 periods provided in subsections (2)(a), (2)(b), ~~(2)(c), and~~
 6 (3)(a) above, the principal lobbyist shall file a report
 7 stating such that fact.

8 (5) A principal subject to this chapter shall file with
 9 the commissioner an accounting of payments made for the
 10 purpose of lobbying, as follows:

11 (a) If payments are made solely to influence
 12 legislative action, an accounting must be made no later than
 13 60 days following adjournment of a legislative session and
 14 must include all payments made during the legislative
 15 session.

16 (b) If payments are made to influence any other
 17 official action by a public official, an accounting must be
 18 made no later than January 31 of the calendar year following
 19 the payments and must include all payments made during the
 20 prior calendar year.

21 ~~(5)(6)~~ Each accounting filed under this section ~~shall~~
 22 must:

23 (a) list all payments for lobbying in each of the
 24 following categories:

25 (i) printing;

1 (ii) advertising, including production costs;
 2 (iii) postage;
 3 (iv) travel and living expenses;
 4 (v) salaries and fees, including allowances, rewards,
 5 and contingency fees;
 6 (vi) entertainment, including all foods and
 7 refreshments;
 8 (vii) telephone and telegraph; and
 9 (viii) other office expenses;
 10 (b) itemize, identifying the payee and the beneficiary:
 11 (i) each separate payment conferring \$25 or more
 12 benefit to any public official when the payment was made for
 13 the purpose of lobbying; and
 14 (ii) each separate payment conferring \$100 or more
 15 benefit to more than one public official, regardless of
 16 individual benefit, when the payment was made for the
 17 purpose of lobbying, except that in regard to a dinner or
 18 other function to which all senators or all representatives
 19 have been invited, the beneficiary may be listed as all
 20 members of that group without listing separately each person
 21 who attended;
 22 (c) list each contribution and membership fee which
 23 that amounts to \$250 or more when aggregated over the period
 24 of 1 calendar year paid to the principal for the purpose of
 25 lobbying, with the full address of each payer and the issue

1 area, if any, for which such payment was earmarked;
 2 (d) list each official action which the principal or
 3 his agents exerted a major effort to support, oppose, or
 4 modify, together with a statement of the principal's
 5 position for or against such action; and
 6 (e) be kept by the commissioner for a period of 10
 7 years."
 8 NEW SECTION. **Section 4. Extension of authority.** Any
 9 existing authority to make rules on the subject of the
 10 provisions of [this act] is extended to the provisions of
 11 [this act].

-End-