

RESTRICTIONS ON PUBLIC OFFICIALS

BECOMING LOBBYISTS

2002 GENERAL SESSION

STATE OF UTAH

Sponsor: Scott Daniels

This act modifies Title 36 of the Utah Code by enacting the Lobbying Restrictions Act. The act defines certain terms and prohibits certain public officials from becoming lobbyists for two years after leaving office. This act takes effect on January 1, 2003.

This act affects sections of Utah Code Annotated 1953 as follows:

ENACTS:

36-11a-101, Utah Code Annotated 1953

36-11a-102, Utah Code Annotated 1953

36-11a-201, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **36-11a-101** is enacted to read:

CHAPTER 11a. LOBBYING RESTRICTIONS ACT

Part 1. General Provisions

36-11a-101. Title.

This chapter is known as the "Lobbying Restrictions Act."

Section 2. Section **36-11a-102** is enacted to read:

36-11a-102. Definitions.

As used in this chapter:

(1) "Executive action" means:

(a) nominations and appointments by the governor;

(b) the proposal, drafting, amendment, enactment, or defeat by a state agency of any rule made in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act; and

(c) agency ratemaking proceedings.



(2) "Legislative action" means:

(a) bills, resolutions, amendments, nominations, and other matters pending or proposed in either house of the Legislature or its committees or requested by a legislator; and

(b) the action of the governor in approving or vetoing legislation.

(3) "Lobbying" means communicating with a public official for the purpose of influencing the passage, defeat, amendment, or postponement of legislative or executive action.

(4) (a) "Lobbyist" means an individual who is employed by a principal or who contracts for economic consideration, other than reimbursement for reasonable travel expenses, with a principal to lobby a public official.

(b) "Lobbyist" does not include:

(i) a public official while acting in his official capacity on matters pertaining to his office or a state employee while acting within the scope of his employment;

(ii) any person appearing at, or providing written comments to, a hearing conducted in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act or Title 63, Chapter 46b, Administrative Procedures Act;

(iii) any person participating on or appearing before an advisory or study task force, commission, board, or committee, constituted by the Legislature or any agency or department of state government, except legislative standing, appropriation, or interim committees;

(iv) a representative of a political party;

(v) an individual representing a bona fide church solely for the purpose of protecting the right to practice the religious doctrines of the church;

(vi) an elected official of a local government while acting within the scope of his official capacity on matters pertaining to his office or an employee of a local government while acting within the scope of his employment; or

(vii) an individual who appears on his own behalf before a committee of the Legislature or an executive branch agency solely for the purpose of testifying in support of or in opposition to legislative or executive action.

(5) "Person" includes individuals, bodies politic and corporate, partnerships, associations, and companies.

(6) "Principal" means a person who employs a lobbyist either as an employee or as an independent contractor.

(7) "Public official" means:

(a) a member of the Legislature;

(b) an individual elected to a position in the executive branch;

(c) persons occupying the positions listed in Section 67-22-2; or

(d) an individual appointed to or employed in the executive or legislative branch if that individual:

(i) occupies a policymaking position or makes purchasing or contracting decisions;

(ii) drafts legislation or makes rules;

(iii) determines rates or fees; or

(iv) makes adjudicative decisions.

Section 3. Section **36-11a-201** is enacted to read:

Part 2. Lobbying Restrictions

36-11a-201. Qualified prohibitions on lobbyists.

(1) Except as provided in Subsection (2), a former public official may not become a lobbyist or engage in lobbying activities for two calendar years, beginning the date the public official leaves office and ending on the day after the two-year anniversary of that date.

(2) This section does not apply if the former public official:

(a) engages in lobbying on behalf of himself or a business with which he is associated, other than a business whose primary activity is lobbying or governmental relations; and

(b) does not engage in activities that would require registration as a lobbyist.

Section 4. Effective date.

This act takes effect on January 1, 2003.

Legislative Review Note

as of 1-8-02 10:41 AM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel