

STATE and LOCAL FISCAL IMPACT

Drafting Number: LLS 14-0799	Date: February 6, 2014
Prime Sponsor(s): Sen. Heath; Cadman	Bill Status: Senate SVMA
Rep. Hullinghorst; DelGrosso	Fiscal Analyst: Bill Zepernick (303-866-4777)

SHORT TITLE: DECRIMINALIZE PROHIBITED PRACTICES FOR LOBBYISTS

Fiscal Impact Summary*	FY 2014-2015	FY 2015-2016
State Revenue Cash Funds	Minimal decrease in fine revenue. See State Revenue section.	
State Expenditures General Fund	Minimal decrease in costs. See State Expenditures section.	
FTE Position Change		
Appropriation Required: None.		

* This summary shows changes from current law under the bill for each fiscal year.

Summary of Legislation

The bill decriminalizes certain prohibited practices for lobbyists. Currently, these prohibited practices are a misdemeanor offense, subject to a fine of up to \$5,000 or up to 12 months imprisonment in a county jail. The decriminalized practices are listed and categorized below.

Financial practices include:

- making any form of payment to a covered official for an interest in real or personal property that is above the amount typically paid by others;
- making a loan to, or other transaction with, a covered official with the intent of making the official obligated to the lobbyist; and
- making excess campaign contributions or making prohibited campaign contributions to covered officials during the legislative session.

Practices involving dishonesty include:

- knowingly attempting to deceive, or making false statements to, a covered official;
- concealing the identity of the person or entity for whom the lobbyist is working from a covered official; and
- knowingly using a fictitious name or another person's identity without his or her permission in communicating with a covered official;

Practices involving threats or intimidation include

- attempting to influence a covered official with a threat of political reprisal or withholding of financial support for, or providing financial support in opposition to, a covered official's candidacy in a future election; and
- seeking to influence a covered official by communicating with the official's employer

Practices involving conflicts of interest and professional standards include:

- knowingly representing an interest that is adverse to the lobbyist's principal without first getting the principal's consent after full disclosure by the lobbyist;
- causing a legislative or executive measure to be introduced or influencing its introduction for the purposes of the lobbyist afterwards being employed to support or oppose the measure;
- employing a person to lobby who is not a registered lobbyist; and
- receiving compensation for lobbying while serving as a state officer or central committee member of a political party; and
- engaging in other practices that discredit the practice of lobbying.

Even with decriminalization under the bill, committing a prohibited practice may still result in a lobbyist being subject to disciplinary action under the rules of the General Assembly or the registration program operated by the Secretary of State. Misdemeanor criminal offenses for lobbyists are retained for several other practices, including noncompliance with lobbyist registration requirements; making false statements or material omissions in required filings; and quid pro quo exchanges for passage or defeat of legislation, rule, or other measure.

State Revenue

The bill eliminates several misdemeanor offenses, which may reduce fine revenue to the Fines Collection Cash Fund in the Judicial Department by a minimal amount. Because the courts have the discretion of incarceration, imposing a fine, or both, the impact to state revenue cannot be determined. Prosecution of lobbyists under the decriminalized offenses is not common and any change in fine revenue is assumed to be minimal.

State Expenditures

The bill may result in a minimal decrease in trial court caseload in the Judicial Department. The fiscal note estimates that any reduction in caseload from eliminating these misdemeanor offenses relating to lobbying will be minimal and not require an adjustment in appropriations to the Judicial Department.

Local Government Impact

This bill results in a minimal decrease in costs for local governments by eliminating misdemeanor offenses relating to lobbying. The penalty for these misdemeanors is up to 12 months in a county jail, a fine of up to \$5,000, or both. Because the courts have the discretion of incarceration or imposing a fine, the impact at the local level cannot be determined. The cost to house an offender in county jails varies from \$45 to \$50 per day in smaller rural jails to \$62 to \$65 per day for larger Denver-metro area jails. For the current fiscal year, the state reimburses county jails at a daily rate of \$51.45 to house state inmates. Any potential decrease in costs to counties under this bill will be minimal.

Effective Date

The bill takes effect upon signature of the Governor, or upon becoming law without his signature.

State and Local Government Contacts

Judicial
Corrections

Legislature
Counties

State
District Attorneys