

1 H.585

2 Introduced by Representative Jewett of Ripton

3 Referred to Committee on

4 Date:

5 Subject: General Assembly; Executive Branch; lobbying; administrative
6 action; gift and contribution ban

7 Statement of purpose of bill as introduced: This bill proposes to:

8 (1) expand the definition of “administrative action” in regard to
9 lobbying and prohibit administrative officials and legislators from accepting
10 gifts over \$50.00 from lobbyists, lobbyist employers, and lobbying firms; and

11 (2) prohibit a statewide officer from:

12 (A) accepting gifts over \$50.00 from persons who seek contractual or
13 other business or financial relationships with the officer’s office or who are
14 regulated by the officer’s office; and

15 (B) accepting political contributions from persons who have or seek
16 contractual or other business or financial relationships with the officer’s office
17 and prohibit his or her office from entering into contracts with persons that
18 have made a political contribution to the officer within five years preceding the
19 contract.

20 An act relating to lobbying, gifts, and political contributions

1 It is hereby enacted by the General Assembly of the State of Vermont:

2 Sec. 1. 2 V.S.A. § 261 is amended to read:

3 § 261. DEFINITIONS

4 As used in this chapter:

5 (1) “Administrative action” means any action taken by an administrative
6 official or by any agency, department, division, office, board, or commission
7 of State government with regard to any proposal, drafting, development, or
8 consideration of a policy, practice, or rule, or to any other action within the
9 authority of the administrative official that has the potential to affect the rights,
10 privileges, or liabilities of another person. Actions as defined by this section
11 do not include decisions of quasi-judicial boards in contested cases.

12 (2) “Administrative official” means a State officer, or an officer,
13 employee, or consultant of any agency, department, division, office, board, or
14 commission of State government who as part of his or her official duties
15 participates in any administrative action, other than in a solely clerical,
16 secretarial, or ministerial capacity.

17 (3) “Compensation” means any salary, reward, retainer, or
18 reimbursement received or to be received by one acting as a lobbyist, whether
19 in the form of a fee, salary, forbearance, forgiveness, or any other form of
20 recompense, reward, retainer, reimbursement, or combination thereof.

21 (4) “Contribution” shall have the same meaning as in 17 V.S.A. § 2901.

1 (5) “Employer” means any person, other than a lobbying firm, who
2 engages the services of a lobbyist for compensation for the purpose of
3 lobbying. A lobbyist who employs another lobbyist shall be required to
4 register and report both as an employer and a lobbyist.

5 (5)(6) “Expenditure” means a payment, distribution, loan, advance,
6 deposit, or gift of money or anything else of value and includes a contract,
7 promise, or agreement, whether or not legally enforceable, to make an
8 expenditure. “Expenditure” includes sums expended in connection with
9 lobbying, including research, consulting, and other lobbying preparation and
10 travel, meals, and lodging.

11 (6)(7)(A) “Gift” means:

12 (i) a ~~political~~ contribution;

13 (ii) anything of value, tangible or intangible, that is bestowed for
14 less than adequate consideration, including travel expenses such as travel fare,
15 room and board, and other expenses associated with travel;

16 (iii) a meal or alcoholic beverage;

17 (iv) a ticket, fee, or expenses for or to any sporting, recreational,
18 or entertainment events;

19 (v) a speaking fee or honorarium, except actual and reasonable
20 travel expenses;

1 (vi) a loan made on terms more favorable than those made
2 generally available to the public in the normal course of business.

3 (B) “Gift” does not mean:

4 (i) anything given between immediate family members;

5 (ii) printed educational material such as books, reports, pamphlets,
6 or periodicals;

7 (iii) a gift which is not used and which, within 30 days after
8 receipt, is returned to the donor or for which the donor is reimbursed for its fair
9 market value; and

10 (iv) a devise or inheritance.

11 ~~(7)~~(8) “Legislator” means any member or member-elect of the General
12 Assembly.

13 ~~(8)~~(9) “Legislative action” means any action by a legislator with regard
14 to introduction of a bill, resolution, or amendment or with regard to any bill,
15 resolution, amendment, report, appointment, recommendation, nomination,
16 election, proposed or final proposed rule, or other matter proposed for
17 consideration by or pending in the General Assembly or in any committee of
18 the General Assembly.

1 ~~(9)~~(10) “Lobby” or “lobbying” means:

2 (A) to communicate orally or in writing with any legislator or
3 administrative official for the purpose of influencing legislative or
4 administrative action;

5 (B) solicitation of others to influence legislative or administrative
6 action;

7 (C) an attempt to obtain the goodwill of a legislator or administrative
8 official by communications or activities with that legislator or administrative
9 official intended ultimately to influence legislative or administrative action; or

10 (D) activities sponsored by an employer or lobbyist on behalf of or
11 for the benefit of the members of an interest group, if a principal purpose of the
12 activity is to enable such members to communicate orally with one or more
13 legislators or administrative officials for the purpose of influencing legislative
14 or administrative action or to obtain their goodwill.

15 ~~(10)~~(11) “Lobbyist” means a person who receives or is entitled to
16 receive, either by employment or contract, \$500.00 or more in monetary or
17 in-kind compensation in any calendar year for engaging in lobbying, either
18 personally or through his or her agents, or a person who expends more than
19 \$500.00 on lobbying in any calendar year.

1 ~~(11)~~(12) “State officer” means the Governor, Lieutenant Governor,
2 Attorney General, Secretary of State, State Treasurer, and Auditor of
3 Accounts.

4 ~~(12)~~(13) “Lobbying firm” means a sole proprietorship, partnership,
5 corporation, limited liability corporation, or unincorporated association which
6 receives or is entitled to receive \$500.00 or more in monetary or in-kind
7 compensation for engaging in lobbying, either personally or through its agents,
8 in any calendar year and employs more than one individual lobbyist, contracts
9 with at least one other lobbyist, or is affiliated with at least one other lobbyist.

10 ~~(13)~~(14) “Immediate family” means a person’s spouse ~~or civil union~~
11 ~~partner~~, parent, sibling, child, or in-law, including a parent, sibling, or child of
12 a spouse ~~or civil union partner~~.

13 Sec. 2. 2 V.S.A. § 264 is amended to read:

14 § 264. REPORTS OF EXPENDITURES, COMPENSATION, AND GIFTS;
15 EMPLOYERS; LOBBYISTS

16 * * *

17 (b) An employer shall disclose for the period of the report the following
18 information:

19 * * *

20 (3) An itemized list of every gift, the value of which is greater than
21 \$15.00, made by or on behalf of the employer to or at the request of one or

1 more legislators or administrative officials or a member of a legislator's or
2 administrative official's immediate family. With respect to each gift, the
3 employer shall report the date the gift was made, the nature of the gift, the
4 value of the gift, the identity of any legislators or administrative officials who
5 requested the gift, and the identity of any recipients of the gift. Monetary gifts,
6 other than ~~political~~ contributions, shall be prohibited.

7 * * *

8 (c) A lobbyist shall disclose for the period of the report the following
9 information:

10 * * *

11 (3) An itemized list of every gift, the value of which is greater than
12 \$15.00, made by or on behalf of a lobbyist to or at the request of one or more
13 legislators or administrative officials or a member of the legislator's or
14 administrative official's immediate family. With respect to each gift, the
15 lobbyist shall report the date the gift was made, the nature of the gift, the value
16 of the gift, the identity of any legislators or administrative officials who
17 requested the gift, and the identity of any recipients of the gift. Monetary gifts,
18 other than ~~political~~ contributions, shall be prohibited.

19 * * *

1 Sec. 3. 2 V.S.A. § 264b is amended to read:

2 § 264b. LOBBYING FIRM LISTINGS; REPORTS OF EXPENDITURES,
3 COMPENSATION, AND GIFTS; LOBBYING FIRMS

4 * * *

5 (b) Every lobbying firm shall file a disclosure report on the same day as
6 lobbyist disclosure reports are due under subsection 264(a) of this title, which
7 shall include:

8 * * *

9 (3) An itemized list of every gift, the value of which is greater than
10 \$15.00, made by or on behalf of the lobbying firm to or at the request of one or
11 more legislators or administrative officials or a member of a legislator's or
12 administrative official's immediate family. With respect to each gift, the
13 lobbying firm shall report the date the gift was made, the nature of the gift, the
14 value of the gift, the identity of any legislators or administrative officials who
15 requested the gift, and the identity of any recipients of the gift. Monetary gifts,
16 other than ~~political~~ contributions, shall be prohibited.

17 * * *

1 Sec. 4. 2 V.S.A. § 266 is amended to read:

2 § 266. PROHIBITED CONDUCT

3 (a) It shall be prohibited conduct:

4 (1) to employ a lobbyist or lobbying firm, or accept employment as a
5 lobbyist or lobbying firm, for compensation that is dependent on a
6 contingency;

7 (2) for a legislator or administrative official to solicit a gift of any value
8 or to accept a gift with a value over \$50.00, other than a contribution, from a
9 ~~registered an employer or registered~~ lobbyist, or a lobbying firm ~~engaged by~~
10 ~~an employer~~, except that charitable contributions for nonprofit organizations
11 qualified under 26 U.S.C. § 501(c)(3) may be solicited and accepted from
12 ~~registered employers and registered~~ lobbyists, or lobbying firms ~~engaged by~~
13 ~~an employer~~; or

14 (3) when the General Assembly is in session, until adjournment sine die:

15 (A) for a legislator, a legislator's candidate's committee, a legislative
16 leadership political committee, or an administrative official to solicit a
17 contribution from a ~~registered~~ lobbyist, a ~~registered an~~ employer, or a lobbying
18 firm ~~engaged by an employer~~; or

19 (B) for a ~~registered~~ lobbyist, ~~registered an~~ employer, or a lobbying
20 firm ~~engaged by an employer~~ to make or promise a contribution to a legislator,

1 a legislator's candidate's committee, or a legislative leadership political
2 committee.

3 (b) As used in this section, "candidate's committee;" "~~contribution,~~" and
4 "legislative leadership political committee" shall have the same meanings as in
5 17 V.S.A. § 2901.

6 Sec. 5. 3 V.S.A. § 261a is added to read:

7 § 261a. STATE OFFICERS; GIFTS FROM CERTAIN PERSONS;

8 CONTRACTS WITH CONTRIBUTORS

9 (a) Gifts from certain persons. A State officer shall not solicit or accept
10 any gift with a value over \$50.00 from any person, or from an individual acting
11 on behalf of that person or from that person's or individual's spouse or
12 domestic partner, if the person:

13 (1) has or seeks to obtain contractual or other business or financial
14 relationships with the officer's office or the agency or department in which he
15 or she is employed; or

16 (2) conducts business or activities that are regulated by the officer's
17 office or the agency or department in which he or she is employed.

18 (b) Contracts with contributors.

19 (1) A State officer shall not solicit or accept a contribution of any value
20 from any person, or from an individual acting on behalf of that person or from
21 that person's or individual's spouse or domestic partner, if the person has or

1 seeks to obtain contractual or other business or financial relationships with the
2 officer's office or the agency or department in which he or she is employed.

3 (2) A State officer in his or her official capacity, or his or her office or
4 the agency or department in which he or she is employed, shall not enter into a
5 contract with a person if that person has made a contribution to that officer, or
6 if an individual acting on behalf of that person or that person's or individual's
7 spouse or domestic partner has made a contribution to that officer, within five
8 years preceding the date of the contract.

9 (c) Definitions. As used in this section:

10 (1) "Contribution" shall have the same meaning as in 17 V.S.A. § 2901.

11 (2) "Gift" shall have the same meaning as in 2 V.S.A. § 261.

12 (3) "State officer" means the Governor, Lieutenant Governor, Treasurer,
13 Secretary of State, Auditor of Accounts, and Attorney General.

14 Sec. 6. APPLICABILITY

15 The provisions of 3 V.S.A. § 261a(b) in Sec. 5 of this act, regarding
16 contracts with contributors, shall not apply to any contract in effect on the
17 effective date of this act that would otherwise be restricted by that subsection.

18 Sec. 7. EFFECTIVE DATE

19 This act shall take effect on July 1, 2016.