

1 **LOBBYIST LICENSING MODIFICATIONS**

2 2019 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Don L. Ipson**

5 House Sponsor: Mike Schultz

7 **LONG TITLE**

8 **General Description:**

9 This bill amends provisions of the Lobbyist Disclosure and Regulation Act.

10 **Highlighted Provisions:**

11 This bill:

- 12 ▶ clarifies provisions relating to financial reports;
- 13 ▶ requires the lieutenant governor to provide, and a lobbyist to take, an annual
- 14 training course relating to workplace discrimination and harassment;
- 15 ▶ amends existing rulemaking authority within the Office of the Lieutenant Governor;
- 16 ▶ amends lobbyist licensing provisions;
- 17 ▶ prohibits a lobbyist from:
 - 18 • violating federal laws governing workplace harassment and discrimination; and
 - 19 • violating policies governing workplace harassment and discrimination adopted
 - 20 by the Utah Senate, the Utah House, and the Utah executive branch;
- 21 ▶ provides penalties for a lobbyist who violates the provisions of this bill;
- 22 ▶ permits a lobbyist to file a complaint of workplace discrimination or harassment
- 23 against an executive worker or a legislative worker; and
- 24 ▶ makes technical and conforming amendments.

25 **Money Appropriated in this Bill:**

26 None

27 **Other Special Clauses:**

28 None

29 **Utah Code Sections Affected:**

30 AMENDS:

31 **36-11-103**, as last amended by Laws of Utah 2015, Chapter 188

32 **36-11-106**, as last amended by Laws of Utah 2002, Chapter 317

33 **36-11-307**, as enacted by Laws of Utah 2011, Chapter 389

34 **36-11-401**, as last amended by Laws of Utah 2015, Chapter 258

35 **36-11-404**, as last amended by Laws of Utah 2008, Chapter 382

36 ENACTS:

37 **36-11-501**, Utah Code Annotated 1953

38

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

40 Section 1. Section **36-11-103** is amended to read:

41 **36-11-103. Licensing requirements.**

42 (1) (a) Before engaging in any lobbying, a lobbyist shall obtain a license from the
43 lieutenant governor by completing the form required by this section.

44 (b) The lieutenant governor shall issue licenses to qualified lobbyists.

45 (c) The lieutenant governor shall prepare a Lobbyist License Application Form that
46 includes:

47 (i) a place for the lobbyist's name and business address;

48 (ii) a place for the following information for each principal for whom the lobbyist
49 works or is hired as an independent contractor:

50 (A) the principal's name;

51 (B) the principal's business address;

52 (C) the name of each public official that the principal employs and the nature of the
53 employment with the public official; and

54 (D) the general purposes, interests, and nature of the principal;

55 (iii) a place for the name and address of the person who paid or will pay the lobbyist's
56 registration fee, if the fee is not paid by the lobbyist;

57 (iv) a place for the lobbyist to disclose:

- 58 (A) any elected or appointed position that the lobbyist holds in state or local
59 government, if any; and
60 (B) the name of each public official that the lobbyist employs and the nature of the
61 employment with the public official, if any;
62 (v) a place for the lobbyist to disclose the types of expenditures for which the lobbyist
63 will be reimbursed; and
64 (vi) a certification to be signed by the lobbyist that certifies that the information
65 provided in the form is true, accurate, and complete to the best of the lobbyist's knowledge and
66 belief.

67 (2) Each lobbyist who obtains a license under this section shall update the licensure
68 information when the lobbyist accepts employment for lobbying by a new client.

69 (3) (a) Except as provided in Subsection (4), the lieutenant governor shall grant a
70 lobbying license to an applicant who:

71 (i) files an application with the lieutenant governor that contains the information
72 required by this section; ~~and~~

73 (ii) completes the training required by Section 36-11-307; and

74 ~~(ii)~~ (iii) pays a ~~[\$110]~~ \$60 filing fee.

75 (b) A license entitles a person to serve as a lobbyist on behalf of one or more principals
76 and expires on December 31 ~~[of]~~ each ~~[even-numbered]~~ year.

77 (4) (a) The lieutenant governor may disapprove an application for a lobbying license:

78 (i) if the applicant has been convicted of violating Section 76-8-103, 76-8-107,
79 76-8-108, or 76-8-303 within five years before the date of the lobbying license application;

80 (ii) if the applicant has been convicted of violating Section 76-8-104 or 76-8-304
81 within one year before the date of the lobbying license application;

82 (iii) ~~[for]~~ during the term of any suspension imposed under Section 36-11-401;

83 (iv) if the applicant has not complied with Subsection 36-11-307(6);

84 (v) during the term of a suspension imposed under Subsection 36-11-501(3);

85 (vi) if the lobbyist fails to pay a fine imposed under Subsection 36-11-501(3);

86 ~~[(iv)]~~ (vii) if, within one year before the date of the lobbying license application, the
87 applicant has been found to have willingly and knowingly:

88 (A) violated this section or Section 36-11-201, 36-11-301, 36-11-302, 36-11-303,
89 36-11-304, 36-11-305, or 36-11-403; or

90 (B) filed a document required by this chapter that the lobbyist knew contained
91 materially false information or omitted material information; or

92 ~~[(v)]~~ (viii) if the applicant is prohibited from becoming a lobbyist under Title 67,
93 Chapter 24, Lobbying Restrictions Act.

94 (b) An applicant may appeal the disapproval in accordance with the procedures
95 established by the lieutenant governor under this chapter and Title 63G, Chapter 4,
96 Administrative Procedures Act.

97 (5) The lieutenant governor shall deposit each license fee into the General Fund as a
98 dedicated credit to be used by the lieutenant governor to pay the cost of administering the
99 license program described in this section.

100 (6) A principal need not obtain a license under this section, but if the principal makes
101 expenditures to benefit a public official without using a lobbyist as an agent to confer those
102 benefits, the principal shall disclose those expenditures as required by Section 36-11-201.

103 (7) Government officers need not obtain a license under this section, but shall disclose
104 any expenditures made to benefit public officials as required by Section 36-11-201.

105 (8) Surrender, cancellation, or expiration of a lobbyist license does not absolve the
106 lobbyist of the duty to file the financial reports if the lobbyist is otherwise required to file the
107 reports by Section 36-11-201.

108 Section 2. Section 36-11-106 is amended to read:

109 **36-11-106. Financial reports are public documents.**

110 (1) Any person may:

111 (a) without charge, inspect a license application or financial report filed with the
112 lieutenant governor in accordance with this chapter; and

113 (b) make a copy of a financial report after paying for the actual costs of the copy.

114 (2) The lieutenant governor shall make financial reports filed in accordance with this
115 chapter available for viewing on the Internet at the lieutenant governor's website within seven
116 calendar days after the day on which the report is received by the lieutenant governor.

117 Section 3. Section **36-11-307** is amended to read:

118 **36-11-307. Ethics and unlawful harassment training course for lobbyists --**
119 **Internet availability -- Content -- Participation tracking -- Penalty.**

120 (1) The lieutenant governor shall develop and maintain ~~[an ethics training course for]~~
121 online training courses educating lobbyists[.] about:

122 (a) federal workplace discrimination and harassment prohibitions and requirements;

123 (b) the Utah Senate's, Utah House's, and the executive branch's policies governing
124 workplace discrimination and harassment prohibitions, policies, and procedures; and

125 (c) state and federal requirements governing lobbyists, including lobbyist ethical
126 requirements.

127 (2) ~~[The ethics]~~ A training course described in Subsection (1) shall include training
128 materials and exercises that are available on the Internet to lobbyists and to the public.

129 (3) The lieutenant governor shall design the ethics training course ~~[shall be designed]~~
130 to assist lobbyists in understanding and complying with current ethical and campaign finance
131 requirements under state law, legislative rules, and federal law.

132 (4) The lieutenant governor may enter into an agreement with the Department of
133 Human Resource Management to assist the lieutenant governor in providing the workplace
134 discrimination and harassment training described in this section.

135 ~~[(4)]~~ (5) ~~[The ethics]~~ A training course described in this section shall include
136 provisions for verifying when a lobbyist has successfully completed ~~[key training exercises]~~ the
137 training.

138 ~~[(5) A lobbyist shall successfully complete the key training exercises of the ethics~~
139 ~~training course once each year.]~~

140 ~~[(6) A lobbyist who does not complete the training required by this section is subject to~~
141 ~~a penalty as provided in Section 36-11-401.]~~

142 (6) (a) A lobbyist shall, within 30 days after the day on which the lobbyist applies for a
143 lobbying license or a lobbying license renewal:

144 (i) successfully complete the training courses described in this section; and

145 (ii) provide to the lieutenant governor a document, signed by the lobbyist, certifying
146 that the lobbyist has:

147 (A) completed the training courses required by this section; and

148 (B) received, read, understands, and will comply with the workplace discrimination
149 and harassment policies adopted by the Utah Senate, the Utah House, and Utah's executive
150 branch.

151 (b) The lieutenant governor may not issue a lobbying license, or renew a lobbying
152 license, until the lieutenant governor has received from the lobbyist the document required by
153 Subsection (6)(a).

154 (7) A signature described in Subsection (6)(b) may be an electronic signature.

155 Section 4. Section **36-11-401** is amended to read:

156 **36-11-401. Penalties.**

157 (1) Any person who intentionally violates Section [36-11-103](#), [36-11-201](#), [36-11-301](#),
158 [36-11-302](#), [36-11-303](#), [36-11-304](#), [36-11-305](#), or [36-11-403](#), is subject to the following
159 penalties:

160 (a) an administrative penalty of up to \$1,000 for each violation; and

161 (b) for each subsequent violation of that same section within 24 months, either:

162 (i) an administrative penalty of up to \$5,000; or

163 (ii) suspension of the violator's lobbying license for up to one year, if the person is a
164 lobbyist.

165 (2) Any person who intentionally fails to file a financial report required by this chapter,
166 omits material information from a license application form or financial report, or files false
167 information on a license application form or financial report, is subject to the following
168 penalties:

169 (a) an administrative penalty of up to \$1,000 for each violation; or

170 (b) suspension of the violator's lobbying license for up to one year, if the person is a
171 lobbyist.

172 (3) Any person who intentionally fails to file a financial report required by this chapter
173 on the date that it is due shall, in addition to the penalties, if any, imposed under Subsection (1)
174 or (2), pay a penalty of up to \$50 per day for each day that the report is late.

175 (4) (a) When a lobbyist is convicted of violating Section 76-8-103, 76-8-107, 76-8-108,
176 or 76-8-303, the lieutenant governor shall suspend the lobbyist's license for up to five years
177 from the date of the conviction.

178 (b) When a lobbyist is convicted of violating Section 76-8-104 or 76-8-304, the
179 lieutenant governor shall suspend a lobbyist's license for up to one year from the date of
180 conviction.

181 (5) (a) Any person who intentionally violates Section 36-11-301, 36-11-302, or
182 36-11-303 is guilty of a class B misdemeanor.

183 (b) The lieutenant governor shall suspend the lobbyist license of any person convicted
184 under any of these sections for up to one year.

185 (c) The suspension shall be in addition to any administrative penalties imposed by the
186 lieutenant governor under this section.

187 (d) Any person with evidence of a possible violation of this chapter may submit that
188 evidence to the lieutenant governor for investigation and resolution.

189 ~~[(6) A lobbyist who does not complete the training required by Section 36-11-307 is~~
190 ~~subject to the following penalties:]~~

191 ~~[(a) an administrative penalty of up to \$1,000 for each failure to complete the training~~
192 ~~required by Section 36-11-307; and]~~

193 ~~[(b) for two or more failures to complete the training required by Section 36-11-307~~
194 ~~within 24 months, suspension of the lobbyist's lobbying license.]~~

195 ~~[(7)] (6) Nothing in this chapter creates a third-party cause of action or appeal rights.~~

196 Section 5. Section 36-11-404 is amended to read:

197 **36-11-404. Lieutenant governor's procedures.**

198 (1) [~~The lieutenant governor~~] Except as otherwise provided under Section 36-11-501,
 199 the director of elections within the Office of the Lieutenant Governor shall make rules that
 200 provide:

201 (a) for the appointment of an administrative law judge to adjudicate alleged violations
 202 of this [~~section~~] chapter and to impose penalties under this [~~section~~] chapter;

203 (b) procedures for license applications, disapprovals, suspensions, revocations, and
 204 reinstatements that comply with the procedures and requirements of Title 63G, Chapter 4,
 205 Administrative Procedures Act.

206 (2) The lieutenant governor shall develop forms needed for the registration and
 207 disclosure provisions [~~of~~] described in this chapter.

208 Section 6. Section **36-11-501** is enacted to read:

209 **Part 5. Unlawful Harassment**

210 **36-11-501. Unlawful harassment -- Investigation -- Penalties.**

211 (1) A lobbyist may not engage in conduct that violates:

212 (a) federal workplace discrimination and harassment requirements;

213 (b) Utah Senate or Utah House policies governing workplace discrimination or
 214 harassment;

215 (c) Utah executive branch policies governing workplace discrimination or harassment;

216 or

217 (d) any combination of Subsections (1) (a), (b), or (c).

218 (2) (a) The lieutenant governor may take an action described in Subsection (3) against
 219 a lobbyist if the lieutenant governor finds, after giving the lobbyist notice and an opportunity to
 220 be heard, that the lobbyist engaged in a serious violation, or multiple violations, of this section.

221 (b) The lieutenant governor shall post on the lieutenant governor's website a copy of
 222 the Utah Senate's harassment policy, the Utah House's harassment policy, and the executive
 223 branch's harassment policies.

224 (3) If the lieutenant governor makes a finding described in Subsection (2)(a), the
 225 lieutenant governor may, taking into account the seriousness of the violation or the seriousness

226 or frequency of multiple violations, do either or both of the following:

227 (a) impose an administrative fine against the lobbyist, not to exceed \$2,000; or

228 (b) suspend the lobbyist's license for a period of up to five years.

229 (4) A record that relates to an investigation under this section is a protected record, to

230 the extent permitted by Title 63G, Chapter 2, Government Records Access and Management

231 Act.

232 (5) (a) A lobbyist who is a victim of workplace discrimination or harassment by an

233 executive worker may file a complaint under the state executive branch's applicable workplace

234 discrimination and harassment policy.

235 (b) A lobbyist who is a victim of workplace discrimination or harassment by a

236 legislative worker may file a complaint under the Utah Senate's workplace discrimination and

237 harassment policy or the Utah House's workplace discrimination and harassment policy.