

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 83rd General Assembly
3 Regular Session, 2001

A Bill

HOUSE BILL 2562

4
5 By: Representatives Hathorn, Gillespie
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For An Act To Be Entitled

9 AN ACT TO AMEND ARKANSAS CODE 21-8-801 TO CLARIFY THE
10 RECEIVING OF GIFTS OR COMPENSATION BY PUBLIC SERVANTS;
11 TO AMEND ARKANSAS CODE 21-8-604 TO CLARIFY WHEN A
12 LOBBYIST IS REQUIRED TO PROVIDE AN ITEMIZED LISTING OF
13 FOOD, TRAVEL, AND LODGING; AND FOR OTHER PURPOSES.
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Subtitle

15 TO AMEND ARKANSAS CODE 21-8-801 AND
16 ARKANSAS CODE 21-8-604 TO CLARIFY THE
17 RECEIVING OF GIFTS OR COMPENSATION BY
18 PUBLIC SERVANTS, AND WHEN A LOBBYIST IS
19 REQUIRED TO PROVIDE AN ITEMIZED LISTING
20 OF FOOD, TRAVEL, AND LODGING.
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24 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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26 SECTION 1. Arkansas Code 21-8-801 is amended to read as follows:

27 21-8-801. Prohibited acts generally.

28 No public servant shall:

29 (1) Receive a gift or compensation as defined in subchapter 4 of this
30 chapter, other than income and benefits from the governmental body to which he
31 or she is duly entitled, in exchange for the performance of the duties and
32 responsibilities of his or her office or position;

33 (2) Purposely use or disclose to any other person or entity
34 confidential government information acquired by him or her in the course of
35 and by reason of the public servant's official duties, to secure anything of
36 material value or benefit for himself or herself or his or her family.

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SECTION 2. Arkansas Code 21-8-604(b) is amended to read as follows:

(b) The reports shall contain:

(1)(A) The total of all expenditures made or incurred by the registered lobbyist or on behalf of the registered lobbyist by his or her employer or any officer, employee, or agent during the preceding period.

(B) These totals shall be itemized according to financial category and employers and clients, including food and refreshments, entertainment, living accommodations, advertising, printing, postage, travel, telephone, and other expenses or services.

(C) Registered lobbyists shall not be required to report office expenses other than office expenses specifically required to be reported under this section.

(D) Registered lobbyists are not required to report unreimbursed personal living and travel expenses not incurred directly for lobbying;

(2)(A) An itemized listing of each:

(i) Gift given to a public servant or on behalf of the public servant;

(ii) Payment for food, lodging, or travel in excess of forty dollars (\$40.00) on behalf of a public servant. The itemized listing shall only be required if the lobbyist personally spends in excess of forty dollars (\$40.00). The lobbyist shall not be required to provide an itemized listing of the food, lodging, or travel merely because the aggregate value spent by two (2) or more lobbyists exceeds forty dollars (\$40.00); and

(iii) Any other item paid or given to a public servant or on behalf of the public servant, except for campaign contributions, having a value in excess of forty dollars (\$40.00) unless consideration of equal or greater value has been given therefor. If the person receiving or to be benefiting by the item is a public employee, the person's governmental body shall be identified.

(B) Each item shall be identified by date, amount paid or value, and the name of the individual receiving or to be benefited by the item, and a description of the item.

(C) In the case of special events, including parties, dinners, athletic events, entertainment, and other functions, expenses need

1 not be allocated by individuals, but the date of the event, location, name of
2 the governmental body or groups of public servants invited, and total expense
3 shall be stated;

4 (3) A detailed statement of any money loaned or promised or line
5 of credit established to a public servant or to anyone on behalf of the public
6 servant in excess of twenty-five dollars (\$25.00) per individual. Money loaned
7 or a line of credit established that is issued in the ordinary course of
8 business by a financial institution or a person who regularly and customarily
9 extends credit shall not be required to be disclosed; and

10 (4) A statement detailing the direct business association or
11 partnership with any public servant before whom the lobbyist may engage in
12 lobbying.

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14 SECTION 3. It is hereby found and determined by the Eighty-third
15 General Assembly that the Arkansas Ethics Commission has misinterpreted the
16 legislative intent with regard to Arkansas Code 21-8-801(1) and Arkansas Code
17 21-8-604. The Arkansas Ethics Commission interpreted Arkansas Code 21-8-801
18 to prohibit the reception of gifts or compensation by a public servant if the
19 gift or compensation is conferred upon the public servant based solely on the
20 person's status as a public servant. The Arkansas Ethics Commission reached
21 this decision based upon the fact that Arkansas Code 5-52-103 and Arkansas
22 Code 5-52-104 provide for the unlawfulness of receiving gifts and compensation
23 on a quid pro quo basis and therefore, it must have been the Legislature's
24 intent to enact a dissimilar law with respect to Arkansas Code 21-8-801.
25 However, it is the intent of the General Assembly that Arkansas Code 21-8-801
26 be interpreted to prohibit the receiving of gifts and compensation by public
27 servants as a form of quid pro quo and not based upon the person's status as a
28 public servant. The Arkansas Ethics Commission also interpreted Arkansas Code
29 21-8-604 to require lobbyists to report an itemized listing of food, lodging,
30 and travel if the aggregate value spent by two (2) or more lobbyists on food,
31 lodging, and travel exceeds forty dollars (\$40.00). However, it is the intent
32 of the General Assembly that a lobbyist shall only be required to report an
33 expenditure on food, lodging, or travel if the amount spent by each lobbyist
34 exceeds forty dollars (\$40.00). The provisions of this act must go into
35 immediate effect in order to prevent inequitable harm to public servants and
36 lobbyists. Therefore, an emergency is declared to exist and this act being

1 immediately necessary for the preservation of the public peace, health and
2 safety shall become effective on the date of its approval by the Governor. If
3 the bill is neither approved nor vetoed by the Governor, it shall become
4 effective on the expiration of the period of time during which the Governor
5 may veto the bill. If the bill is vetoed by the Governor and the veto is
6 overridden, it shall become effective on the date the last house overrides the
7 veto.

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