

FIRST REGULAR SESSION

# HOUSE BILL NO. 426

## 98TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE SWAN.

0970H.011

D. ADAM CRUMBLISS, Chief Clerk

### AN ACT

To repeal section 105.470, RSMo, and to enact in lieu thereof three new sections relating to ethics.

*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Section 105.470, RSMo, is repealed and three new sections enacted in lieu thereof, to be known as sections 105.453, 105.470, and 105.1430, to read as follows:

**105.453. 1. No member of the general assembly shall act or serve as a government consultant or lobbyist, register as a lobbyist, or solicit clients to represent as a lobbyist until two years after the expiration of any term of office for which such member is elected.**

**2. For the purposes of this section, the terms "government consultant" and "lobbyist" shall have the same meaning as in section 105.470.**

105.470. As used in section 105.473, unless the context requires otherwise, the following words and terms mean:

(1) "Elected local government official lobbyist", any natural person employed specifically for the purpose of attempting to influence any action by a local government official elected in a county, city, town, or village with an annual operating budget of over ten million dollars;

(2) "Executive lobbyist", any natural person who acts for the purpose of attempting to influence any action by the executive branch of government or by any elected or appointed official, employee, department, division, agency or board or commission thereof and in connection with such activity, meets the requirements of any one or more of the following:

(a) Is acting in the ordinary course of employment on behalf of or for the benefit of such person's employer; or

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

13 (b) Is engaged for pay or for any valuable consideration for the purpose of performing  
14 such activity; or

15 (c) Is designated to act as a lobbyist by any person, business entity, governmental entity,  
16 religious organization, nonprofit corporation, association or other entity; or

17 (d) Makes total expenditures of fifty dollars or more during the twelve-month period  
18 beginning January first and ending December thirty-first for the benefit of one or more public  
19 officials or one or more employees of the executive branch of state government in connection  
20 with such activity. An "executive lobbyist" shall not include a member of the general assembly,  
21 an elected state official, or any other person solely due to such person's participation in any of  
22 the following activities:

23 a. Appearing or inquiring in regard to a complaint, citation, summons, adversary  
24 proceeding, or contested case before a state board, commission, department, division or agency  
25 of the executive branch of government or any elected or appointed officer or employee thereof;

26 b. Preparing, filing or inquiring, or responding to any audit, regarding any tax return, any  
27 public document, permit or contract, any application for any permit or license or certificate, or  
28 any document required or requested to be filed with the state or a political subdivision;

29 c. Selling of goods or services to be paid for by public funds, provided that such person  
30 is attempting to influence only the person authorized to authorize or enter into a contract to  
31 purchase the goods or services being offered for sale;

32 d. Participating in public hearings or public proceedings on rules, grants, or other  
33 matters;

34 e. Responding to any request for information made by any public official or employee  
35 of the executive branch of government;

36 f. Preparing or publication of an editorial, a newsletter, newspaper, magazine, radio or  
37 television broadcast, or similar news medium, whether print or electronic;

38 g. Acting within the scope of employment by the general assembly, or acting within the  
39 scope of employment by the executive branch of government when acting with respect to the  
40 department, division, board, commission, agency or elected state officer by which such person  
41 is employed, or with respect to any duty or authority imposed by law to perform any action in  
42 conjunction with any other public official or state employee; or

43 h. Testifying as a witness before a state board, commission or agency of the executive  
44 branch;

45 (3) "Expenditure", any payment made or charge, expense, cost, debt or bill incurred; any  
46 gift, honorarium or item of value bestowed including any food or beverage; any price, charge or  
47 fee which is waived, forgiven, reduced or indefinitely delayed; any loan or debt which is  
48 cancelled, reduced or otherwise forgiven; the transfer of any item with a reasonably discernible

49 cost or fair market value from one person to another or provision of any service or granting of  
50 any opportunity for which a charge is customarily made, without charge or for a reduced charge;  
51 except that the term "expenditure" shall not include the following:

52 (a) Any item, service or thing of value transferred to any person within the third degree  
53 of consanguinity of the transferor which is unrelated to any activity of the transferor as a  
54 lobbyist;

55 (b) Informational material such as books, reports, pamphlets, calendars or periodicals  
56 informing a public official regarding such person's official duties, or souvenirs or mementos  
57 valued at less than ten dollars;

58 (c) Contributions to the public official's campaign committee or candidate committee  
59 which are reported pursuant to the provisions of chapter 130;

60 (d) Any loan made or other credit accommodations granted or other payments made by  
61 any person or entity which extends credit or makes loan accommodations or such payments in  
62 the regular ordinary scope and course of business, provided that such are extended, made or  
63 granted in the ordinary course of such person's or entity's business to persons who are not public  
64 officials;

65 (e) Any item, service or thing of de minimis value offered to the general public, whether  
66 or not the recipient is a public official or a staff member, employee, spouse or dependent child  
67 of a public official, and only if the grant of the item, service or thing of de minimis value is not  
68 motivated in any way by the recipient's status as a public official or staff member, employee,  
69 spouse or dependent child of a public official;

70 (f) The transfer of any item, provision of any service or granting of any opportunity with  
71 a reasonably discernible cost or fair market value when such item, service or opportunity is  
72 necessary for a public official or employee to perform his or her duty in his or her official  
73 capacity, including but not limited to entrance fees to any sporting event, museum, or other  
74 venue when the official or employee is participating in a ceremony, public presentation or  
75 official meeting therein;

76 (g) Any payment, gift, compensation, fee, expenditure or anything of value which is  
77 bestowed upon or given to any public official or a staff member, employee, spouse or dependent  
78 child of a public official when it is compensation for employment or given as an employment  
79 benefit and when such employment is in addition to their employment as a public official;

80 (4) **“Government consultant”, any natural person who acts for the purpose of**  
81 **attempting to influence the taking, passage, amendment, delay, or defeat of any official**  
82 **action on any bill, resolution, amendment, nomination, appointment, report, or any other**  
83 **action on any other matter pending or proposed in a legislative committee in either house**

84 **of the general assembly, or in any matter which may be the subject of action by the general**  
85 **assembly;**

86 (5) "Judicial lobbyist", any natural person who acts for the purpose of attempting to  
87 influence any purchasing decision by the judicial branch of government or by any elected or  
88 appointed official or any employee thereof and in connection with such activity, meets the  
89 requirements of any one or more of the following:

90 (a) Is acting in the ordinary course of employment which primary purpose is to influence  
91 the judiciary in its purchasing decisions on a regular basis on behalf of or for the benefit of such  
92 person's employer, except that this shall not apply to any person who engages in lobbying on an  
93 occasional basis only and not as a regular pattern of conduct; or

94 (b) Is engaged for pay or for any valuable consideration for the purpose of performing  
95 such activity; or

96 (c) Is designated to act as a lobbyist by any person, business entity, governmental entity,  
97 religious organization, nonprofit corporation or association; or

98 (d) Makes total expenditures of fifty dollars or more during the twelve-month period  
99 beginning January first and ending December thirty-first for the benefit of one or more public  
100 officials or one or more employees of the judicial branch of state government in connection with  
101 attempting to influence such purchasing decisions by the judiciary. A "judicial lobbyist" shall  
102 not include a member of the general assembly, an elected state official, or any other person solely  
103 due to such person's participation in any of the following activities:

104 a. Appearing or inquiring in regard to a complaint, citation, summons, adversary  
105 proceeding, or contested case before a state court;

106 b. Participating in public hearings or public proceedings on rules, grants, or other  
107 matters;

108 c. Responding to any request for information made by any judge or employee of the  
109 judicial branch of government;

110 d. Preparing, distributing or publication of an editorial, a newsletter, newspaper,  
111 magazine, radio or television broadcast, or similar news medium, whether print or electronic; or

112 e. Acting within the scope of employment by the general assembly, or acting within the  
113 scope of employment by the executive branch of government when acting with respect to the  
114 department, division, board, commission, agency or elected state officer by which such person  
115 is employed, or with respect to any duty or authority imposed by law to perform any action in  
116 conjunction with any other public official or state employee;

117 [(5)] (6) "Legislative lobbyist", any natural person who acts for the purpose of attempting  
118 to influence the taking, passage, amendment, delay or defeat of any official action on any bill,  
119 resolution, amendment, nomination, appointment, report or any other action or any other matter

120 pending or proposed in a legislative committee in either house of the general assembly, or in any  
121 matter which may be the subject of action by the general assembly and in connection with such  
122 activity, meets the requirements of any one or more of the following:

123 (a) Is acting in the ordinary course of employment, which primary purpose is to influence  
124 legislation on a regular basis, on behalf of or for the benefit of such person's employer, except  
125 that this shall not apply to any person who engages in lobbying on an occasional basis only and  
126 not as a regular pattern of conduct; or

127 (b) Is engaged for pay or for any valuable consideration for the purpose of performing  
128 such activity; or

129 (c) Is designated to act as a lobbyist by any person, business entity, governmental entity,  
130 religious organization, nonprofit corporation, association or other entity; or

131 (d) Makes total expenditures of fifty dollars or more during the twelve-month period  
132 beginning January first and ending December thirty-first for the benefit of one or more public  
133 officials or one or more employees of the legislative branch of state government in connection  
134 with such activity. A "legislative lobbyist" shall include an attorney at law engaged in activities  
135 on behalf of any person unless excluded by any of the following exceptions. A "legislative  
136 lobbyist" shall not include any member of the general assembly, an elected state official, or any  
137 other person solely due to such person's participation in any of the following activities:

138 a. Responding to any request for information made by any public official or employee  
139 of the legislative branch of government;

140 b. Preparing or publication of an editorial, a newsletter, newspaper, magazine, radio or  
141 television broadcast, or similar news medium, whether print or electronic;

142 c. Acting within the scope of employment of the legislative branch of government when  
143 acting with respect to the general assembly or any member thereof;

144 d. Testifying as a witness before the general assembly or any committee thereof;

145 [(6)] (7) "Lobbyist", any natural person defined as an executive lobbyist, judicial  
146 lobbyist, elected local government official lobbyist, or a legislative lobbyist;

147 [(7)] (8) "Lobbyist principal", any person, business entity, governmental entity, religious  
148 organization, nonprofit corporation or association who employs, contracts for pay or otherwise  
149 compensates a lobbyist;

150 [(8)] (9) "Public official", any member or member-elect of the general assembly, judge  
151 or judicial officer, or any other person holding an elective office of state government or any  
152 agency head, department director or division director of state government or any member of any  
153 state board or commission and any designated decision-making public servant designated by  
154 persons described in this subdivision.

**105.1430. No member of the general assembly or a candidate for such office shall**  
2 **accept or receive compensation of any kind as a paid government consultant or receive**  
3 **compensation for any form of employment or similar association with a business entity, as**  
4 **defined in subdivision 2 of section 105.450, that is engaged in lobbying or government**  
5 **consulting.**

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