

SECOND REGULAR SESSION

[PERFECTED]

# HOUSE BILL NO. 2226

## 98TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE BARNES.

5844H.03P

D. ADAM CRUMBLISS, Chief Clerk

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### AN ACT

To repeal sections 105.452, 105.470, and 105.483, RSMo, and to enact in lieu thereof three new sections relating solely to adding special executive branch appointees to the definition of public official.

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

Section A. Sections 105.452, 105.470, and 105.483, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 105.452, 105.470, and 105.483, to read as follows:

105.452. 1. No elected or appointed official or employee of the state or any political subdivision thereof **or public official, as defined under section 105.470**, shall:

(1) Act or refrain from acting in any capacity in which he is lawfully empowered to act as such an official or employee by reason of any payment, offer to pay, promise to pay, or receipt of anything of actual pecuniary value paid or payable, or received or receivable, to himself or any third person, including any gift or campaign contribution, made or received in relationship to or as a condition of the performance of an official act, other than compensation to be paid by the state or political subdivision; or

(2) Use confidential information obtained in the course of or by reason of his employment or official capacity in any manner with intent to result in financial gain for himself, his spouse, his dependent child in his custody, or any business with which he is associated;

(3) Disclose confidential information obtained in the course of or by reason of his employment or official capacity in any manner with intent to result in financial gain for himself or any other person;

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.

15 (4) Favorably act on any matter that is so specifically designed so as to provide a special  
16 monetary benefit to such official or his spouse or dependent children, including but not limited  
17 to increases in retirement benefits, whether received from the state of Missouri or any third party  
18 by reason of such act. For the purposes of this subdivision, "special monetary benefit" means  
19 being materially affected in a substantially different manner or degree than the manner or degree  
20 in which the public in general will be affected or, if the matter affects only a special class of  
21 persons, then affected in a substantially different manner or degree than the manner or degree  
22 in which such class will be affected. In all such matters such officials must recuse themselves  
23 from acting, except that such official may act on increases in compensation subject to the  
24 restrictions of Section 13 of Article VII of the Missouri Constitution; or

25 (5) Use his decision-making authority for the purpose of obtaining a financial gain which  
26 materially enriches himself, his spouse or dependent children by acting or refraining from acting  
27 for the purpose of coercing or extorting from another anything of actual pecuniary value.

28 2. No elected or appointed official or employee of any political subdivision **or public**  
29 **official, as defined under section 105.470**, shall offer, promote, or advocate for a political  
30 appointment in exchange for anything of value to any political subdivision.

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

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

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

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

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.

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22 An "executive lobbyist" shall not include a member of the general assembly, an elected state  
23 official, or any other person solely due to such person's participation in any of the following  
24 activities:

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

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

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

34 d. Participating in public hearings or public proceedings on rules, grants, or other  
35 matters;

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

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

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

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

47 (3) "Expenditure", any payment made or charge, expense, cost, debt or bill incurred; any  
48 gift, honorarium or item of value bestowed including any food or beverage; any price, charge or  
49 fee which is waived, forgiven, reduced or indefinitely delayed; any loan or debt which is  
50 cancelled, reduced or otherwise forgiven; the transfer of any item with a reasonably discernible  
51 cost or fair market value from one person to another or provision of any service or granting of  
52 any opportunity for which a charge is customarily made, without charge or for a reduced charge;  
53 except that the term "expenditure" shall not include the following:

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

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

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

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

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

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

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

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

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

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

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

94 (d) Makes total expenditures of fifty dollars or more during the twelve-month period  
95 beginning January first and ending December thirty-first for the benefit of one or more public  
96 officials or one or more employees of the judicial branch of state government in connection with  
97 attempting to influence such purchasing decisions by the judiciary.

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99 A "judicial lobbyist" shall not include a member of the general assembly, an elected state official,  
100 or any other person solely due to such person's participation in any of the following activities:

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

103 b. Participating in public hearings or public proceedings on rules, grants, or other  
104 matters;

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

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

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

114 (5) "Legislative lobbyist", any natural person who acts for the purpose of attempting to  
115 influence the taking, passage, amendment, delay or defeat of any official action on any bill,  
116 resolution, amendment, nomination, appointment, report or any other action or any other matter  
117 pending or proposed in a legislative committee in either house of the general assembly, or in any  
118 matter which may be the subject of action by the general assembly and in connection with such  
119 activity, meets the requirements of any one or more of the following:

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

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

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

128 (d) Makes total expenditures of fifty dollars or more during the twelve-month period  
129 beginning January first and ending December thirty-first for the benefit of one or more public

130 officials or one or more employees of the legislative branch of state government in connection  
131 with such activity.

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133 A "legislative lobbyist" shall include an attorney at law engaged in activities on behalf of any  
134 person unless excluded by any of the following exceptions. A "legislative lobbyist" shall not  
135 include any member of the general assembly, an elected state official, or any other person solely  
136 due to such person's participation in any of the following activities:

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

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

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

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

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

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

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

154 **(9) "Special executive branch appointee", any member of any task force, advisory**  
155 **committee, or other body or persons appointed by, named by, or at the direction of an**  
156 **executive branch official, who is authorized or directed to report to the executive branch**  
157 **official for purposes of recommending policy, policy revisions, or executive actions that**  
158 **would involve the expenditure of public funds.**

105.483. Each of the following persons shall be required to file a financial interest  
2 statement:

3 (1) Associate circuit judges, circuit court judges, judges of the courts of appeals and of  
4 the supreme court, and candidates for any such office;

5 (2) Persons holding an elective office of the state, whether by election or appointment,  
6 and candidates for such elective office, except those running for or serving as county committee  
7 members for a political party pursuant to section 115.609 or section 115.611;

8 (3) The principal administrative or deputy officers or assistants serving the governor,  
9 lieutenant governor, secretary of state, state treasurer, state auditor and attorney general, which  
10 officers shall be designated by the respective elected state official;

11 (4) The members of each board or commission and the chief executive officer of each  
12 public entity created pursuant to the constitution or interstate compact or agreement and the  
13 members of each board of regents or curators and the chancellor or president of each state  
14 institution of higher education;

15 (5) The director and each assistant deputy director and the general counsel and the chief  
16 purchasing officer of each department, division and agency of state government;

17 (6) Any official or employee of the state authorized by law to promulgate rules and  
18 regulations or authorized by law to vote on the adoption of rules and regulations;

19 (7) Any member of a board or commission created by interstate compact or agreement,  
20 including the executive director and any Missouri resident who is a member of the bi-state  
21 development agency created pursuant to sections 70.370 to 70.440;

22 (8) Any board member of a metropolitan sewer district authorized under Section 30(a)  
23 of Article VI of the State Constitution;

24 (9) Any member of a commission appointed or operating pursuant to sections 64.650 to  
25 64.950, sections 67.650 to 67.658, or sections 70.840 to 70.859;

26 (10) The members, the chief executive officer and the chief purchasing officer of each  
27 board or commission which enters into or approves contracts for the expenditure of state funds;

28 (11) Each elected official, candidate for elective office, the chief administrative officer,  
29 the chief purchasing officer and the general counsel, if employed full time, of each political  
30 subdivision with an annual operating budget in excess of one million dollars, and each official  
31 or employee of a political subdivision who is authorized by the governing body of the political  
32 subdivision to promulgate rules and regulations with the force of law or to vote on the adoption  
33 of rules and regulations with the force of law; unless the political subdivision adopts an  
34 ordinance, order or resolution pursuant to subsection 4 of section 105.485;

35 (12) Any person who is designated as a decision-making public servant by any of the  
36 officials or entities listed in subdivision (6) of section 105.450; **and**

37 **(13) Any special executive branch appointee under section 105.470.**

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