

# Changes In State Campaign Finance & Ethics Laws

September 2003

## Alaska

### Lobbying

Alaska recently enacted two new statutes that affect lobbyist registration and lobbyist gift rules. First, effective September 14, 2003, the annual registration fee for lobbyists will be raised to \$250 per client from \$100. 108 SLA 03 (former SB 119) (signed July 18, 2003) (amending Alaska Stat. Ann. 24.45.041(g)).

Second, effective September 15, 2003, the following changes to the state's lobbying laws will be made by 115 SLA 03 (former SB 89) (signed June 17, 2003):

1. There will be an exception to the legislative-session gift prohibition from lobbyists for tickets to certain charity events. (Alaska Stat. Ann. 24.60.080 & 24.45.141(a)(9)).
2. Exceptions will be added to the definition of "administrative action" that exclude from the definition, among other things, procurement activity, certain activities regarding permits and the enforcement of compliance with existing law or the imposition of sanctions for a violation of existing law. (*Id.* 24.45.171(1)).
3. The phrase "communicate directly" will be added to the definition of "influencing legislative and administrative action." (*Id.* 24.45.171(6) & 24.45.171(13)).
4. An in-house employee will be required to reach a threshold of 40 hours in any 30 days before he or she falls under the definition of non-professional "lobbyist." (*Id.* 24.45.171(8)).

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## Campaign Finance

Former SB 119 also makes several changes to Alaska's campaign finance laws. The pertinent changes are detailed below. These campaign finance changes are effective September 14, 2003.

First, individuals may now contribute up to \$1,000 per year to candidates, non-group entities, individuals conducting a write-in campaign and groups that are not political parties, an increase from \$500. Individuals may also contribute up to \$10,000 per year to political parties. This is an increase from \$5,000. Sec. 8 (amending Alaska Stat. Ann. § 15.13.070(b)). Next, groups that are not political parties now may contribute up to \$2,000 per year to a candidate, \$2,000 per year to another group or \$4,000 per year to a political party. Sec. 9 (amending Alaska Stat. Ann. § 15.13.070(c)). The statute also raised the limit on contributions by non-group entities to other non-group entities, candidates, groups and political parties to \$1,000 per year from \$500 per year. Sec. 10 (amending Alaska Stat. Ann. § 15.13.070(f)). Further, the ten-day post-election report is no longer required, and the year-end report, due February 15 of the next year, must include information through February 1 of that year. Sec. 14 (amending Alaska Stat. Ann. § 15.12.110(a)). Reports are due 105 days after a special election. *Id.*

Finally, the state has expanded its definition of "express communication" to mean "a communication that, when read as a whole and with limited reference to outside events, is susceptible of no other reasonable interpretation but as an exhortation to vote for or against a specific candidate. Sec. 18 (amending Alaska Stat. Ann. § 15.13.400(7)).

## Illinois

Effective July 1, 2003, the Illinois Secretary of State raised the annual lobbyist registration fee. With the change, the annual fee for nonprofit entities is \$100 and the annual fee for all other persons and entities is \$300. Previously, the annual registration fee had been \$50.

## North Carolina

On June 26, 2003, Governor Mike Easley of North Carolina signed former S. 787, which amends the state's campaign finance law in relation to federal PACs that make contributions in the state. The statute simply states that federal PACs will not be subject to requirements that are more stringent than the ones applicable to North Carolina state PACs.

The North Carolina State Board of Elections indicates that this statutory change will eliminate the 10-day post-contribution report currently required of federal PACs that make contributions in North Carolina. Instead, federal PACs will be required to file quarterly reports in election years and semiannual reports in non-election years. No changes will be made to the registration requirements, and all reports must continue to be on North Carolina forms. Nevertheless, for the time being, federal PACs should continue to file reports ten days after making a contribution in North Carolina because the State Board of Elections has yet to issue new regulations. The statute gives the Board until January 1, 2004, to implement the change. When new regulations are promulgated, the Board will notify treasurers of federal PACs.

## South Carolina

On June 26, 2003, Governor Mark Sanford of South Carolina signed H. 3206 into law, changing many provisions of the state's lobbying and campaign finance code.

### Lobbying

Effective immediately are three provisions affecting the state's lobbying laws. First, the lobbyist and lobbyist principal registration fees increase to \$100 each. S.C. Code Ann. § 2-17-20 & 2-17-25. Second, the monetary limits on the gift rule exception applicable to the provision of food, transportation, beverages, entertainment and lodging by a lobbyist principal to public officials at certain specified group events have been increased to \$50 per day and \$400 per year from the previous \$25 and \$200, respectively. *Id.* § 2-17-190. These amounts are now indexed for inflation. Finally, lobbyists and lobbyist employers who terminate their registration continue to be subject for the remainder of the calendar year to the lobbyist contribution prohibitions, the prohibition against a lobbyist's causing the introduction of legislation for employment purposes, and the prohibition against a lobbyist's or lobbyist principal's hosting events to raise funds for public officials. *Id.* §§ 2-17-20(C) & 2-17-25(C).

Effective January 1, 2004, the state reduces the number of reports required from lobbyists and lobbyist employers. In 2004 and beyond, reports will be due on June 30 (covering January 1 to May 31) and January 31 (covering June 1 to December 31). *Id.* §§ 2-17-30. For 2003, remaining reports continue to be due on October 10 and December 31.

### Campaign Finance

The five significant changes made by former H. 3206 to the South Carolina campaign finance statute are as follows:

1. The legislature mandates that the State Ethics Commission develop a system of mandatory electronic reporting for candidates and committees. Mandatory electronic reporting will not be instituted before November 3, 2004. The legislature also mandates that campaign finance reports be made publicly available at the State Ethics Commission, the Senate Ethics Committee, the House for Representatives Ethics Committee and the county clerk of court's office. Secs. 16 & 45 (adding S.C. Code § 8-13-365 & amending *id.* § 8-13-1366).
2. The definition of "coordinated with" is clearly defined. Sec. 26 (adding definition to S.C. Code § 8-13-1300). This provision takes effect on November 3, 2004.
3. The new statute adds a person making independent expenditures of \$500 or more during an election cycle for the election or defeat of a candidate to the definition of "committee." Sec. 20 (amending S.C. Code § 8-13-1300(6)). This provision takes effect on November 3, 2004.
4. The state also added a definition of "influence the outcome of an elected office," which means

- (a) expressly advocating the election or defeat of a clearly identified candidate using words including or substantially similar to 'vote for', 'elect', 'cast your ballot for', 'Smith for Governor', 'vote against', 'defeat' or 'reject';
- (b) communicating campaign slogans or individual words that, taken in context, have no other reasonable meaning other than to urge the election or defeat of a clearly identified candidate including or substantially similar to slogans or words such as 'Smith's the One', 'Jones 2000', 'Smith/Jones', 'Jones!' or 'Smith-A man for the People!'; or
- (c) any communication made, not more than 45 days before an election, which promotes or supports a candidate or attacks or opposes a candidate, regardless of whether the communication expressly advocates a vote for or against a candidate. For purposes of this paragraph, 'communication' means (i) any paid advertisement or purchased program time broadcast over television or radio; (ii) any paid message conveyed through telephone banks, direct mail or electronic mail; or (iii) any paid advertisement that costs more than \$5,000 that is conveyed through a communication medium other than those set forth in subsections (i) or (ii) of this paragraph. 'Communication' does not include news, commentary or editorial programming or article, or communication to an organization's own members.

Sec. 25 (adding definition to S.C. Code § 8-13-1300). This provision takes effect on November 3, 2004.

According to the Office of the Governor, this provision and others in the new statute are designed to make sure that funds used to make advertisements that support or attack a candidate, regardless of the source, are publicly disclosed—especially "last minute sneak attacks by organizations whose membership and funding are unclear or ambiguous." Office of the Governor, *Gov. Sanford Signs Campaign Reform Bill Into Law*.

5. Finally, the new statute clarifies the requirements applicable to committees that support or oppose ballot measure committees. See, e.g., sec. 24 (amending S.C. Code § 8-13-1300). This provision takes effect on November 3, 2004.

## **Texas**

Through H.B. 1606, which was signed by Governor Rick Perry on June 18, 2003, the Texas legislature made several changes to both the state's lobbying laws and its campaign finance laws. These statutory changes are effective September 1, 2003. Pertinent changes are described below.

### **Lobbying**

The threshold for filing detailed itemized reports of expenditures for transportation, lodging, food and beverages and entertainment has been increased. The threshold for expenditures on or after September 1, 2003, will be \$75, which is 60% of a legislator's *per diem*. H.B. 1606 Sec. 4.06 (amending Tex. Gov't Code § 305.0061). For expenditures made before September 1, 2003, the triggering threshold was \$50.

Second, the Texas Ethics Commission is required to create an electronic filing system and appropriate rules for lobbyist registration statements and reports. Sec. 4.07 (amending Tex. Gov't Code § 305.0064). The Commission must complete this process by December 1, 2004 and may then increase registration fees to

cover the cost of system.

Third, the legislature has revised the conflict of interest provisions that govern how and when a lobbyist may represent more than one client. Sec. 4.08 (amending Tex. Gov't Code § 305.028).

Finally, the legislature increased the penalty for filing a late lobbying activity report to \$500. This increased penalty applies to reports due on or after September 1, 2003.

### **Campaign Finance**

The legislature made six significant changes to its campaign finance laws, effective September 1, 2003 and which follow.

1. Out-of-state political committees (including Federal PACs) that do not register with Texas must file copies of their Federal Election Commission (FEC) reports or other state's reports for periods in which they accept contributions or make expenditures in Texas. The reports are filed according to the FEC or other state's schedule. Secs. 2.02 & 2.21 (amending Tex. Elect. Code §§ 251.005 & 254.1581).
2. The regular session contribution prohibition applicable to statewide officeholders, members of the legislature, and legislative caucuses is extended to include the period up to 20 days after final adjournment of a regular session. Sec. 2.06 (amending Tex. Elect. Code §§ 253.034(a) & 253.0341(a)).
3. General-purpose PACs, like corporate Texas state PACs, must disclose expenditures by corporations or labor organizations made to establish and administer the PAC and to finance solicitations for political contributions. Sec. 2.20 (amending Tex. Elect. Code § 254.451). This provision only applies to the reporting of expenditures made on or after September 1, 2003.
4. The definition of "political advertising" is expanded to include communications on Internet websites. Sec. 2.01 (amending Tex. Elect. Code § 251.001(16)).
5. Political advertising published or distributed on or after September 1, 2003, that contains express advocacy must contain disclaimers indicating, among other things, the person who paid for it and the political committee or the candidate authorizing it. Political advertising that is authorized by a candidate, an agent of a candidate, or a political committee is deemed to contain express advocacy. Sec. 2.23 (amending Tex. Elect. Code § 255.001). An exception to this disclaimer requirement is added for "circulars or flyers that cost in the aggregate less than \$500 to publish and distribute." *Id.*
6. Solicitations for political contributions must include a statement indicating the information that the political committee is required to report (*i.e.*, "best efforts"). Sec. 2.10 (amending Tex. Elect. Code § 254.0312). Political committees must make at least one written request for missing information within 30 days to contributors of \$500 or more in a reporting period.*Id.*