

# Changes in the States

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March 2006

## **Tennessee Amends Its Lobbying, Ethics and Campaign Finance Rules**

On February 15, 2006, Tennessee Governor Phil Bredesen signed into law the Comprehensive Governmental Ethics Reform Act, which has changed Tennessee state law regarding gifts, lobbying and campaign finance. With respect to gift and lobbying law, the new statute creates a statewide ethics commission for the first time and permits the Tennessee Registry of Election Finance to focus on campaign finance issues. The new law follows in the wake of a corruption investigation by the FBI called "Tennessee Waltz."

With respect to lobbying rules, as of October 1, 2006, lobbyist employers will be required to register with the state ethics commission and will take upon themselves the burden for lobbying reports.

The changes to the gift rules became effective upon the Governor's signature, but the general definitions of gifts, provisions against honoraria and executive branch gift restrictions governed by Executive Order 3, signed on February 2, 2003, have not changed. Likewise, the ban on gifts by lobbyists to officials in the legislative and executive branches remains the same. The exceptions to that ban, however, have changed. There are four major changes to these exceptions, all of which are primarily concerned with what benefits may be provided to state legislators.

First, tickets to charitable, cultural or educational events provided to all candidates or officials of a similar rank, which were previously allowable, now are no longer permissible.

Second, entertainment, food and beverages (and now health screenings) may be provided at an in-state event so long as all legislators, rather than just a committee of either house or a delegation from two or more senatorial districts as before, are invited at least seven days before the event. The cost of such events now may not exceed \$50 per day (rather than per event) and both the aggregate cost and the cost per person must be reported within 30 days following the event.

Third, entertainment, food, beverages and amenities may be served at in-state events where a candidate or official speaks to a meeting of any recognized membership organization as long as (1) the cost is reimbursed by the membership organization and (2) the per-person cost of the event does not exceed \$50 per person per day.

Finally, employers of lobbyists may provide food and beverages to legislators, as well as officials of either branch, so long as the value does not exceed \$50 per event per day, and so long as the aggregate amount spent on that legislator or official does not exceed \$100 per year. Furthermore, the legislator who is invited to the meal is not allowed to have received his per diem allowance for that day.

The new law also made many changes to the state's campaign finance regime.

First, lobbyists are now banned from making contributions to campaigns, although they are still permitted to direct PAC contributions to campaigns.

Second, the Governor, the Governor's campaign committee and Members of the General Assembly are now prohibited from fundraising during an extraordinary session. In addition, PACs that are controlled by parties or caucuses for General Assembly Members and the Governor are prohibited from fundraising during an extraordinary session. These moratoriums previously applied only to fundraising during the regular session.

Third, the maximum allowable aggregate contributions that any individual can make to all candidates and PACs every two years is \$101,400. The maximum for aggregate contributions to candidates is \$40,000, and the maximum for aggregate contributions to PACs is \$61,400. These amounts will be adjusted every two years for inflation.

Finally, PACs must include in their registration a certification of the names of all PAC officers and there must be at least one officer other than the treasurer. PACs must file quarterly reports in non-election years and quarterly, pre-primary and pre-general reports in election years.

### **Proposal Would Prohibit Gifts in Excess of \$75 per Year**

Currently, New York law provides that gifts to a public official from a lobbyist are limited to \$75 "per item" or "per event." However, the staff of the New York Temporary State Commission on Lobbying has put forward a proposal that would prohibit gifts to a public official "with a combined value in excess of \$75 *during a calendar year*" (emphasis added). See N.Y. Temp. State Comm'n on Lobbying, *Staff Draft Guidelines to the Lobbying Act*, at [www.nylobby.state.ny.us/draftguidelines.html](http://www.nylobby.state.ny.us/draftguidelines.html) (rev. Dec. 28, 2005).

According to press reports, the staff began enforcing the calendar-year limit even before the official regulation changed. See N.Y. Ethics Comm'n Adv. Op. 05-04 (Apr. 5, 2005). Staff with the lobbying commission have suggested that the new rule could be adopted at the commission's March 14, 2006 meeting. Staff also indicated that they were unsure whether this change would be retroactive (*i.e.*, if a lobbyist has already given \$75 worth of gifts to a public official in 2006 under the old version of the rule, it is unclear whether that lobbyist would be prohibited from giving any additional gifts to that public official in 2006).