

State and Local Roundup: California Amends Gift Rules; Philadelphia Moves Forward with Lobbying Ordinance; and New York's Newest Regulator Is Operational

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California Amends Gift Rules. Recently, the California Fair Political Practices Commission (FPPC) adopted a series of amendments to its gift regulations. Specifically, at its November 10, 2011, and December 8, 2011, meetings, the FPPC made substantive and stylistic changes to its regulations concerning the ability of public officials and public employees to receive gifts. While many of the revisions correct inconsistencies or incorporate exceptions previously outlined in FPPC opinions and advice letters, the new rules make several notable substantive changes to California's gift rules. The major changes to the regulations are described below. These regulations took effect on January 1, 2012.

By way of background, in California, certain state and local public officials and public employees may not accept gifts from a single source aggregating more than \$420 per calendar year. Registered lobbyists are subject to a lower limit of \$10 per calendar month. Further, certain public officials and public employees must disclose gifts from a single source aggregating more than \$50, and a gift may require the public official or public employee to disqualify himself or herself from actions involving the donor.

Some of the more significant changes to these rules involve the addition of new exceptions to the definition of a gift as well as modifications to existing exceptions. The gift exceptions now include the following:

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- **Ceremonial Acts.** The FPPC revised its regulations involving attendance at ceremonial events. Under the new rule, a public official or public employee, as well as one guest, may each accept a ticket to a facility, show or performance if the official performs a ceremonial role at the event and the official's agency reports the receipt of the tickets. This ceremonial role must be the "focus of the event" for a period of time.
- **Personal or Business Relationship.** The FPPC added a new exception to the definition of a gift that excludes anything given because of an existing business or personal relationship not related to the official's or employee's position and in circumstances where the official or employee does not participate in decisions that would have a foreseeable material financial effect on the donor.
- **Bona Fide Dating.** Under a new regulation, items exchanged between people while on a date or in a dating relationship are not limited and are not reportable. If the donor, however, is a lobbyist who lobbies the official's or employee's agency or is involved in certain matters before the official's or employee's agency, then the recipient may be subject to conflict of interest provisions.
- **Long-Term Friends.** A public official or public employee may accept a gift from a long-term, close personal friend if the payment is unrelated to the public official's or employee's position so long as the donor is not a lobbyist who lobbies the official's or employee's agency or involved in certain matters before the official's or employee's agency.
- **Acts of Neighborliness.** The FPPC issued a new regulation that permits a public official or employee to accept "acts of neighborliness" without the act being considered a gift. The regulation states that this exception applies to items such as providing an occasional ride, assisting in making a repair, taking in a person's mail while away or feeding a person's pet while the person is away.
- **Acts of Human Compassion.** Under this new regulation, a public official or employee (or an official's or employee's family member), who cannot meet medical or living expenses because of an accident, illness or other calamity may accept assistance. This exception is permissible only if the donor and the public official or employee have a prior social relationship for which such assistance would be common. The donor may not be a lobbyist who lobbies the official's or employee's agency or involved in certain matters before the official's or employee's agency.

Finally, beyond adding to or revising these exceptions, the regulations make other amendments to California's rules. One important change involves the exception for home hospitality. Formerly, the hospitality exception included food, beverages and "occasional lodging," and the recipient was permitted to accept this hospitality when given by an individual in that individual's home. Now, the revised regulations only permit the use of this exception where the donor and the recipient have a relationship, connection, or association that is unrelated to the recipient's official position. Also, the term "home" includes a vacation home, a timeshare, a motor home or a boat.

Philadelphia Moves Forward with Lobbying Ordinance. After several false starts, the city of Philadelphia's lobbying ordinance and regulation went into effect on January 3, 2012. Because of delays in drafting regulations as well as a lawsuit filed by the Philadelphia Bar Association, the Philadelphia Board of Ethics

(the Board) opted to delay enforcement of the new law from the original July 1, 2011, effective date.

In November 2011, the Board issued an Advisory Alert stating that registration under Philadelphia's lobbying ordinance and regulation would not be required before January 3, 2012. The Board also advised that the first lobbying expense report will be due on April 30, 2012, and will cover the first quarter of 2012.

Additional information about this new ordinance is available from the July 2010 "Lobbyist Registration and Reporting Coming to Philadelphia in 2011" article in Wiley Rein's *Election Law News*.

New York's Newest Regulator Is Operational. In 2011, New York state passed ethics reform legislation that created the Joint Commission on Public Ethics (JCOPE). The law called for JCOPE to be fully operational within 120 days of the effective date of the new law, or December 12, 2011. On that date, Governor Andrew M. Cuomo and New York's legislative leaders announced their appointments to the 14 member JCOPE. This new commission has broader jurisdiction than did its predecessor, the Commission on Public Integrity, since it also has authority over state legislators and legislative employees. Additional information about this new law is available from the September 2011 "New York Enacts Lobbying and Ethics Changes" article in Wiley Rein's *Election Law News*.