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NEWSLETTER

State Lobbying/Campaign Finance Developments in Hawaii, Iowa, and North Carolina

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Several states have enacted lobbying or campaign finance changes over the past few months. A few details about these changes follow below.

Hawaii. Hawaii Governor Neil Abercrombie has approved two bills enacting new disclosure requirements for political committees. Foremost, House Bill 1147 establishes disclaimer requirements for an array of political ads. Effective November 5, 2014, many ads by independent expenditure committees will need to identify "[t]he three top contributors for th[e] advertisement." For purposes of this new requirement, a "top contributor" is one who has contributed $10,000 or more in the aggregate to the committee within the 12 months leading up to the purchase of the advertisement.

The bill also enlarges the contents of disclosure reports by political committees in general (termed "noncandidate committees" in Hawaii). Among other requirements, noncandidate committees will need to file "late expenditure" reports if they make independent expenditures of more than $500 in the aggregate between fourteen and four days before an election. In addition, noncandidate committees—and others, including business entities—that spend more than $2,000 for electioneering communications in a calendar year will be subject to heightened reporting requirements. Among other information, these entities will need to identify the executives or board members "who authorized the expenditure."

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The second bill, Senate Bill 31, goes into effect immediately and requires these committees to file their supplemental reports on July 31 after an election year, and on January 31 of *every* year. (Until now, supplemental reports were due only during the year after an election year.)

The Hawaii State Ethics Commission has also been active as well. In July, the commission issued a stern advisory warning that it "is investigating a number of state employees for accepting complimentary golf" from vendors, contractors, and others. As a reminder, the commission said, state employees and legislators are prohibited from accepting complimentary golf "absent extraordinary and rare circumstances."

Iowa. In Iowa, state disclosure rules found themselves under scrutiny this summer. An Eighth Circuit panel struck down certain reporting requirements for independent expenditure committees, though it upheld key parts of the regime. The court first affirmed that Iowa could constitutionally require independent expenditure committees to file an "initial independent expenditure statement" and an "initial report." According to the court, "the limited contact information" called for by these filings "bears a substantial relation to a sufficiently important informational interest."

Turning to Iowa's additional reporting provisions, the court then held the state's ongoing reporting requirements unconstitutional "as applied to . . . [independent expenditure] groups whose major purpose is not nominating or electing candidates." First, the court reasoned, requiring these independent expenditure committees to file ongoing reports until the committee is terminated unduly burdens free-speech rights. "Requiring a group to file perpetual, ongoing reports regardless of [its] purpose, and regardless of whether it ever makes more than a single independent expenditure, is no more than tenuously related to Iowa's informational interest," the court maintained. The court also held Iowa's supplemental reporting law and termination requirement unconstitutional (again as applied to the challengers).

Lastly, the court invalidated a certification requirement. Iowa law required a corporate officer to certify that every independent expenditure made by the corporation had been authorized by corporate leadership. Because this provision singled out corporations—leaving other organizations untouched—the court held that it violated the Equal Protection Clause. The court then remanded to the district court on the question of severability—that is, whether the certification provision should be struck in its entirety or whether it should be modified to impose certification duties on *all* similarly situated groups.

North Carolina. Effective August 1, 2013, annual fees for lobbyists and principals in North Carolina shot up from $100 each to $250 each. Senate Bill 402 also makes electronic registration and reporting mandatory beginning on October 1.

Change is afoot on North Carolina's campaign finance front as well. Effective January 1, 2014, House Bill 589 is raising the general contribution limit to $5,000 per election—up from the current $4,000. In addition, the bill tightens restrictions on lobbyist bundling efforts, beginning in October. It also repeals the disclaimer requirements specific to television and radio political ads. (The general disclaimer laws remain in force, though these too have been relaxed.)