

San Francisco Amends Lobbying Ordinance, Presents Draft Regulations for Public Comment

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Last month, the San Francisco Board of Supervisors passed amendments to the city's lobbying ordinance which take effect on July 26, 2014. These amendments re-define "lobbyist" and give the San Francisco Ethics Commission the authority to conduct random audits of lobbyist reports and records. The Ethics Commission has already presented for public comment draft regulations implementing the new ordinance, but it is not clear when final regulations will be promulgated or when they will take effect.

Registration Triggers. Under the prior definition, a "lobbyist" was an individual who made at least one lobbying contact and received or promised \$3,000 or more in compensation during a three-month period for San Francisco lobbyist activities. Under the new definition, an in-house employee becomes a "lobbyist" once the individual makes five or more lobbying contacts in a calendar month on behalf of his or her employer. An outside consultant becomes a "lobbyist" simply by making one or more lobbying contacts in a calendar month on behalf of a client for compensation.

Random Audits. The ordinance also empowers the San Francisco Ethics Commission to initiate random audits of lobbyists at any time. To facilitate these audits, lobbyists are required to retain for five years all records necessary to substantiate their registrations and reports, including copies of all fundraising solicitations sent by the lobbyist related to San Francisco elections.

Proposed Definition of "Contact." Although the ordinance's changes are minimal, the Ethics Commission's proposed regulations could introduce sweeping changes in how lobbyists report their activities. For example, the proposed definition of a lobbying "contact" states

Authors

D. Mark Renaud
Partner
202.719.7405
mrenaud@wiley.law

that each communication with each local officer about each local issue constitutes a separate lobbying contact. Under this proposed definition, a meeting with two local officers about one local issue would constitute two contacts. A meeting with one local officer about three local issues would constitute three contacts.

Proposed Formula for Calculating Reportable Compensation. The proposed regulation also provides a specific formula for calculating the compensation that in-house lobbyists must report. Under this proposed formula, a lobbyist must multiply the amount of economic consideration received during the month (*e.g.*, salary, bonuses) times the percentage of the lobbyist's time spent on lobbying activities.

As noted above, the Ethics Commission is currently accepting public comments on the proposed regulations. It is not clear when the Ethics Commission anticipates finalizing the proposed regulations or when they will take effect.