

Changes in the States

July 2005

New York

New York Clarifies Gift Rule

On April 5, 2005, the New York Temporary Commission on Lobbying issued three opinions affecting the lobbying business in the state and clarifying the scope of the state's \$75 gift rule for lobbyists and lobbyist employers. Each is described below.

Charity Exception: In Advisory Opinion No. 59 (05-04), the Commission stated that the state's exemption from the \$75 lobbyist gift limit for charity events only applied to the portion of any payment that was deductible as a charitable donation. The non-deductible expenditures count against the \$75 gift limit. The example in the opinion related to a pro-am golf tournament where the charity stated that only \$94 of a \$500 entry fee was deductible.

Travel Rules: In Advisory Opinion No. 60 (05-05), the Commission stated that reimbursement by public officials for private airplane trips must be equal to the actual cost of the transportation divided by the number of people receiving the transportation. Reimbursement of first-class airfare is insufficient and could cause a person to fall afoul of the \$75 gift limit.

Political Convention Events: In Advisory Opinion No. 61 (05-06), the Commission reiterated a stance that it took in Advisory Opinion 55 (Aug. 31, 2004), which stated that social events surrounding political conventions but paid for by lobbyists and lobbyist employers must come within the state's \$75 gift rule and that the exemption for political events only applies to events benefiting a candidate or political party. Moreover, the value for gift rule purposes is equal to the fair market value of the item, not the cost of the item. Finally, according to the Commission, if a public official receives multiple

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invitations to an event and has the freedom to distribute those invitations to others, then the value of the gift for gift rule purposes is the aggregate value of all of the invitations received.

Virginia

Virginia Changes Reporting Requirements

Because of recently passed legislation, effective July 1, 2005, every lobbyist in Virginia must send by December 15 of each year a copy of the relevant parts of the lobbyist's disclosure form to each legislative and executive official who is required to be identified as an expense beneficiary on such forms. The report must cover the previous 12 months, ending on the preceding November 30. This is a change from the previous report deadline, which was January 5 and which covered the time period up to the preceding December 31.

For 2005, the notification provided to the identified officials need only cover the previous 11 months, ending on November 30, 2005.

West Virginia

West Virginia Amends Lobbying Law

West Virginia made several changes to its lobbying law effective on July 1, 2005.

First, lobbyists are now required to attend a lobbyist training course on applicable lobbying and ethics provisions. Second, the state authorizes the West Virginia Ethics Commission to conduct random compliance audits of lobbyist registration statements and disclosure reports. Third, there is a new conflict of interest provision for lobbyists. A lobbyist and his or her immediate family may not participate in a government decision as part of certain government bodies if the lobbyist might receive direct economic benefit from the decision of that government body.

In addition to the new provisions discussed above, West Virginia also amended several of its lobbyist registration and reporting requirements. First, the state raised its lobbying registration from \$60 to a base fee of \$100 plus \$100 for each employer represented. Second, the state streamlined the lobbyist reporting requirements. Now, lobbyist reports are due three times per year: May 15, September 15 and January 15, covering the dates of January 1 to April 30, May 1 to August 31, and September 1 to December 31, respectively. Third, the state eliminated the \$25 threshold for reporting gifts to public officials and employees and clarified other itemization requirements. Finally, the new law provides that lobbyists need only retain their lobbying records for two years, a reduction from the previous five-year requirement.