

Coming Soon: Amnesty for New York State Lobbyist Registration and Reporting Violations

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By D. Mark Renaud and Eric Wang

New York State's Joint Commission on Public Ethics (JCOPE) recently announced an amnesty program for lobbyists and clients who have participated in lobbying activities in the state but have failed to register and report as required. The program, which will take effect at the beginning of next year, may allow certain lobbyists and clients to avoid large penalties by retrospectively filing missed registrations and reports.

New York State law broadly regulates lobbying of the state executive and legislative branches, as well as local governments in jurisdictions with a population of more than 5,000, with respect to most official actions, including procurement decisions. "Grassroots lobbying"—making appeals to members of the public to lobby public officials on issues—is also regulated. Retained and in-house lobbyists who earn or spend more than a certain dollar threshold each year are required to register with JCOPE. Although principals and clients of lobbyists technically are not required to register, JCOPE recommends that corporations employing in-house lobbyists register themselves as the lobbyist and list their employees who engage in lobbying.

Registered lobbyists in New York are required to file bimonthly disclosure reports, while principals and clients of registered lobbyists are required to file reports semiannually. Corporations that are themselves registered as lobbyists are treated as both lobbyists and clients and must file bimonthly and semiannual reports. These reports require disclosure of information such as the general subjects and

Authors

D. Mark Renaud
Partner
202.719.7405
mrenaud@wiley.law

Practice Areas

Election Law & Government Ethics
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Government Ethics
Political Law Compliance Counseling

specific items lobbied on, the names of individuals or entities lobbied, and amounts spent on lobbying. Under certain circumstances, lobbyist principals and clients also may be required to disclose their sources of funding used for lobbying.

JCOPE is authorized by law to impose late fees of up to \$25 for each day that a registration statement, lobbyist bimonthly report, or client/principal semiannual report is late. In addition, fines of up to \$25,000 or three times the amount of lobbying expenditures not reported may be imposed for knowing and willful violations. JCOPE also may conduct random audits of lobbying registration statements and reports to ensure that expenditures are being reported properly.

In recent months, JCOPE has publicly released conciliation agreements setting forth penalties for the following lobbying violations:

- \$50,000 for an entity that was registered to lobby on its own behalf, and that failed to file various lobbyist bimonthly reports and client/principal semiannual reports between 2010 and 2015. This amount included a prior settlement of \$11,000 for related violations that the respondent had failed to pay, plus late fees and interest;
- \$6,000 for a lobbyist client that failed to file two lobbyist client semiannual reports over the course of a year;
- \$2,000 for a lobbyist client that failed to file two lobbyist client semiannual reports over the course of a year. The respondent also agreed to permit JCOPE to review respondent's records to determine whether filings are being made in a timely and accurate manner (in addition to JCOPE's general audit authority);
- \$15,000 for a lobbying firm that hired a subcontractor lobbying firm to lobby on behalf of a client. The primary lobbying firm failed to register and file bimonthly lobbyist reports and principal/client semiannual reports over the course of a year. The subcontractor lobbying firm also agreed to pay a penalty of \$12,000 for failing to register and file bimonthly lobbyist reports.

From January 1, 2016 through June 30, 2016, lobbyists and clients that have failed to file the requisite registration and disclosure reports in New York State may be eligible to file late without penalties under JCOPE's amnesty program. However, the program only applies to lobbyists and clients who have not previously registered or filed reports. Lobbyists who are already registered, or clients who have previously filed reports, and who have simply fallen behind on their ongoing reporting obligations are not eligible for the amnesty program.