

Michigan Eliminates Annual Consent for PAC Payroll Deductions

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By Caleb P. Burns and Eric Wang

Earlier this month, Michigan Governor Rick Snyder signed into law a number of amendments to the state's campaign finance laws that took effect immediately. Of particular interest to many *Election Law News* readers is the elimination of Michigan's erstwhile requirement for companies to seek annual affirmative consent from their employees in order to obtain PAC contributions using payroll deductions. While the new law brings corporate federal PACs one step closer to being able to make contributions in Michigan directly, there are still some additional hurdles with which companies must contend.

Under federal law, a corporate-sponsored PAC may obtain contributions from the corporation's eligible personnel using payroll deductions, provided that they obtain an employee's written authorization in advance. The authorization is only required once. Previously, Michigan law had required corporate PACs making contributions in connection with state and local elections to seek employees' affirmative consent annually if they relied on payroll deductions to obtain PAC contributions. Obtaining annual consent from all employees was a significant burden. Thus, most corporations that wished to participate in Michigan elections chose to set up separate Michigan state PACs, and obtained annual consent from only a subset of their employees who wished to contribute to the Michigan state efforts.

Under the new Michigan law, the Michigan and federal requirements for administering corporate PACs are now substantially similar. Notably, however, while federal law permits corporations to solicit the

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immediate family members of stockholders and eligible employees for PAC contributions, Michigan law limits such solicitations only to the spouses of such individuals. Thus, if a corporation has solicited beyond its stockholders, eligible employees, and their spouses for contributions to its federal PAC, then it may still need to form a separate Michigan state PAC in order to make contributions in Michigan.

If a federal PAC has not solicited outside of the permitted universe of contributors under Michigan state law and is eligible to make contributions in Michigan, it must still meet the registration and reporting requirements in Michigan. Relatedly, the new law also appears to amend the quarterly reporting schedule for many PACs registered in Michigan. It is not entirely clear whether the prior or new deadline applies for the first quarterly report due this year for PACs registered in Michigan under the old law. The Michigan Secretary of State's office has indicated that it intends to issue guidance on the new law soon, and the reporting deadline and corresponding reporting coverage period is an issue that may be addressed in the guidance.

The change in Michigan's law illustrates how many states have requirements for corporate PACs that vary from the federal requirements. Corporations interested in using their federal PACs to make PAC contributions in connection with state and local elections must be mindful of the requirements before proceeding.