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NEWSLETTER

Pennsylvania Fines Advocate for Stricter Lobbying Laws $19K for Violating Lobbying Law

March 2020

The Pennsylvania State Ethics Commission recently handed down a large penalty to Common Cause Pennsylvania. The group has advocated for a more expansive state lobbying law, and so perhaps the fine was a case of the proverbial "man bites dog." The fine nevertheless is a reminder of several important aspects of the lobbying laws that must be taken seriously.

As background, Common Cause Pennsylvania is registered as an employer of lobbyists in Pennsylvania. As such, the group is required to file quarterly lobbying reports. The group failed to file its report for the second quarter of 2019. After 80 days of non-filing by the group, the State Ethics Commission imposed the $19,000 fine based on the state's sliding scale of administrative penalties, which ranges from $50 to $200 (depending on how many days have elapsed) for each day a report is filed late.

The first lesson from the Common Cause case is that "lobbying" is broadly regulated. It's not only the "Gucci Gulch" lobbyists for well-funded corporate clients that have to register. Nonprofit groups that advocate for public interest causes – including for stricter lobbying laws – also are subject to these laws.

The second lesson from this example is that penalties for noncompliance can often be high, although the amounts and rigorousness of enforcement vary from state to state. Pennsylvania's fines may seem high, but there are jurisdictions with even higher fines. As *Election Law News* has reported previously, a corporation was hit with a $90,000 fine – a fine of $1,000 per day – after one of

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its executives failed to register for sending one e-mail to the Chicago mayor. When a jurisdiction's fines accrue daily, they can quickly add up.

While inadvertent reporting failures are typically subject to civil penalties, intentional or knowing violations could result in criminal liability, as is the case in Pennsylvania. Some jurisdictions also impose a time-out on violators during which they are prohibited from lobbying. In Pennsylvania, a paid lobbyist who violates the state's lobbying laws may be subject to a five-year ban on lobbying, and the law specifies that "[c]riminal prosecution or conviction is not required for imposition" of this prohibition.

The third lesson from the Common Cause case is that reporting is typically required even for low activity levels or no activity at all. As the State Ethics Commission's final adjudication report noted, in Pennsylvania, registered employers of lobbyists are required to file quarterly reports for any calendar quarter in which their total lobbying expenditures in the state exceed $3,000. However, even if they fall below this threshold, they are still required to file "a statement of failure to meet the reporting threshold" by the reporting deadline. A failure to file either the report or the statement will result in liability.

Wiley's Election Law practice has deep expertise in the lobbying laws at the federal, state, and local levels. We not only advise clients on the registration, reporting, and related requirements, we also assist clients with preparing their lobbying reports.