

Contributor Beware: State-Level Contribution Bans May Apply During Legislative Sessions

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With a new year comes new legislative sessions. Between back-to-back meetings in state capitols and a steady stream of fundraisers to attend as primary season grows closer, government affairs professionals have a lot on their minds. Even so, organizations must be extra careful not to run afoul of so-called “blackout” periods where political contributions are prohibited during legislative sessions. These bans vary widely. Some laws apply only to lobbyists, while others encompass all contributors. Some prohibit only contributions to incumbents, while others include candidates. And some cover only the regular legislative session, while others apply during special sessions as well.

In Kansas, lobbyists, corporations, and political committees are barred from making contributions to statewide office holders, legislators, candidates, and certain political committees from January 1 until adjournment sine die of the legislative session, as well as during any period when the legislature is in special session. Vermont has a similar prohibition when the legislature is in session, but it applies more narrowly to any registered lobbyist, lobbyist employer, or lobbying firm. The law does not mention whether this prohibition applies to an “administrative official,” and the state specifically recommends consulting an attorney in these instances.

In North Carolina, “limited contributors” – including lobbyists or political committees that employ or contract with lobbyists – are prohibited from contributing to a “limited contributee,” which includes members or candidates for the Council of State, members or candidates for the General Assembly, or affiliated party committees. An exception to this blackout period applies during the three weeks preceding a “second primary” if the limited contributee appears on

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that ballot and this type of election is called. Jurisdictions like Alabama have similar time-based exceptions for sessions taking place within 120 days of a primary, runoff, or general election.

Fortunately, other states have no blackout periods, like Idaho and Massachusetts. The only way to understand which kind of blackout law applies where your team is engaged is to remain vigilant. If your organization is concerned about being in the dark on blackout periods, Wiley's Election Law & Government Ethics team can help steer you in the right direction.